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RIN 2105–AE80

Revisions to Civil Penalty Amounts

Correction

In rule document 2019–14101 beginning on page 37059 in the issue of Wednesday, July 31, 2019, make the following correction:

§ 222.11 [Amended]

■ On page 37073, in the second column, amendatory instruction 47c should read as follows:

c. Remove the dollar amount ''$113,894'' and add in its place ''$116,766''.

[FR Doc. C1–2019–14101 Filed 10–28–19; 8:45 am]

BILLING CODE 1301–00–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0843; Product Identifier 2019–NE–27–AD; Amendment 39–19777; AD 2019–21–11]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2019–19–11 for certain Pratt & Whitney (PW) PW1519G, PW1521G, PW1521GA, PW1524G, PW1525G, PW1521G–3, PW1524G–3, PW1525G–3, PW1919G, PW1921G, PW1922G, PW1923G, and PW1923G–A model turbofan engines. AD 2019–19–11 required initial and repetitive inspections of the low-pressure compressor (LPC) inlet guide vane (IGV) and the LPC rotor 1 (R1) and, depending on the results of the inspections, possible replacement of the LPC. This AD requires the same inspection of the LPC R1 for cracks or damage, removes the inspection of the LPC IGV for proper alignment, and expands the applicability to certain additional PW turbofan engines. This AD also reduces the compliance time for these inspections for certain PW turbofan engines. This AD was prompted by recent findings of cracks in the LPC R1 and an additional in-flight failure of the LPC R1. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 29, 2019.

The FAA must receive any comments on this AD by December 13, 2019.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact Pratt & Whitney, 400 Main Street, East Hartford, CT 06118; phone: 800–565–0140; fax: 860–565–5442; email: *help24@pw.utc.com*; internet: *https://fleetcare.pw.utc.com.* You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0843.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0843; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Kevin M. Clark, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7088; fax: 781–238–7199; email: *kevin.m.clark@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued AD 2019–19–11, Amendment 39–19747 (84 FR 50719, September 26, 2019) (''AD 2019–19–11''), for certain PW PW1519G, PW1521G, PW1521GA, PW1524G, PW1525G, PW1521G–3, PW1524G–3, PW1525G–3, PW1919G, PW1921G, PW1922G, PW1923G, and PW1923G–A model turbofan engines. AD 2019–19–11 required initial and repetitive borescope inspections of the LPC IGV and the LPC R1 and, depending on the results of the inspections, possible replacement of the LPC. AD 2019–19–11 resulted from two in-flight shutdowns (IFSDs) that occurred as the result of failures of the LPC R1. The FAA issued AD 2019–19–11 to prevent failure of the LPC R1, which could result in uncontained release of the LPC R1, damage to the engine, damage to the airplane, and loss of control of the airplane.

Actions Since AD 2019–19–11 Was Issued

Since the FAA issued AD 2019–19–11, another LPC R1 failure occurred that resulted in an IFSD of the engine and diversion of the airplane. This failure occurred on an engine with more than 300 flight cycles since new (CSN) accumulated but fewer than 300 flight cycles with a certain version (v2.11.7 or v2.11.8) of electronic engine control (EEC) software installed. In addition, the inspections required by AD 2019–19–11 led to cracks being discovered in the LPC R1 on two other affected engines. These cracks were found on LPC R1s installed on ''zero time spare engines'' (spare engines installed on airplanes already in service) with fewer than 50 flight CSN. Because of these additional findings, the FAA will continue to require inspection of the LPC R1 within 50 flight cycles for certain engines while reducing compliance time to 15 flight cycles for certain other affected engines.

In addition, inspections of the LPC IGV stem for proper alignment, required by AD 2019–19–11, have not detected any misalignment of the LPC IGV stem. The FAA agrees with the manufacturer's determination that alignment of the LPC IGV stem is not linked to the unsafe condition represented by this LPC R1 failure. The FAA is therefore not requiring inspection of the LPC IGV stem in this AD. The FAA is issuing this AD to address the unsafe condition on these products.

Related Service Information

The FAA reviewed Pratt & Whitney Service Bulletin (SB) PW1000G–A–72–00–0125–00A–930A–D, Issue No. 002, dated October 22, 2019, and PW SB PW1000G–A–72–00–0075–00B–930A–D, Issue No. 003, dated October 22, 2019. The SBs contain procedures for performing borescope inspections of the LPC R1 on engines that have less than 300 flight CSN or on engines that have less than 300 flight cycles since installation of the affected EEC software.

FAA's Determination

The FAA is issuing this AD because it evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

This AD requires initial and repetitive borescope inspections of the LPC R1 and, depending on the results of the inspections, replacement of the LPC.

Interim Action

The FAA considers this AD interim action. The investigation into the failures on the PW PW1524G model turbofan engines is on-going and the FAA may pursue further rulemaking action at a later date.

FAA's Justification and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C.) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause,'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without seeking comment prior to the rulemaking. Similarly, Section 553(d) of the APA authorizes agencies to make rules effective in less than 30 days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule. In addition to two recent failures of the LPC R1 installed on PW1524G–3 model turbofan engines, an additional in-flight failure of the LPC occurred on October 15, 2019. LPC rotor failures can release high-energy debris from the engine and damage the airplane (see AC 39–8, ''Continued Airworthiness Assessments of Powerplant and Auxiliary Power Unit Installations of Transport Category Airplanes,'' dated September 8, 2003).

The earlier failures of the LPC R1 occurred at low flight CSN (154 and 230 flight cycles). The most recent failure of the LPC R1 occurred at a higher flight CSN (1,654 flight cycles) but within 300 flight cycles of the installation of a certain version of EEC software. The manufacturer has recommended that the FAA continue to require inspections of the LPC R1 within the next 50 flight cycles for engines with low CSN and to add engines that have accumulated less than 300 flight cycles since installation of the affected software to the applicability of this AD. In addition to the failures of the LPC R1 in flight, inspections mandated by AD 2019–19–11 have found cracks in the LPC R1 on two zero time spare engines affected by that AD. Both engines also had accumulated less than 300 flight CSN. The manufacturer has recommended inspecting these engines within 15 flight cycles.

The FAA has adopted these recommendations. Based on current operational usage of the affected airplanes, 15 flight cycles equates to approximately 2 to 3 operating days and 50 flight cycles equates to approximately 7 to 10 operating days. Therefore, the FAA has determined that low flight cycle engines, as well as those with recently installed software, require inspections within the next 50 flight cycles from the effective date of this AD, while zero time spare engines require inspection within 15 flight cycles from the effective date of this AD. Because of the need for operators to begin the required inspections within 15 or 50 flight cycles, the FAA has made this AD effective upon publication in the **Federal Register**. Accordingly, the FAA determined that the risk of operation of the affected engines without initial and repetitive inspections of the LPC R1 is unacceptable.

The FAA considers the need for initial and repetitive inspections of the LPC R1 to be an urgent safety issue. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to public interest pursuant to 5 U.S.C. 553(b)(3)(B). In addition, for the reasons stated above, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and the FAA did not provide you with notice and an opportunity to provide your comments before it becomes effective. However, the FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA–2019–0843 and product identifier 2019–NE–27–AD at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this final rule. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

The FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about this final rule.

Costs of Compliance

The FAA estimates that this AD affects 18 engines installed on airplanes of U.S. registry.

The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Borescope inspection per inspection cycle	2 work-hours × $85 per hour = $170	0	$170	$3,060

The FAA estimates the following costs to do any necessary replacements that would be required based on the results of the borescope inspections. The FAA has no way of determining the number of aircraft that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace LPC	40 work-hours × $85 per hour = $3,400	$156,000	$159,400

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to engines, propellers, and associated appliances to the Manager, Engine and Propeller Standards Branch, Policy and Innovation Division.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2019–19–11, Amendment 39–19747 (84 FR 50719, September 26, 2019) and adding the following new AD:

2019–21–11 Pratt & Whitney: Amendment 39–19777; Docket No. FAA–2019–0843; Product Identifier 2019–NE–27–AD.

(a) Effective Date

This AD is effective October 29, 2019.

(b) Affected ADs

This AD replaces AD 2019–19–11, Amendment 39–19747 (84 FR 50719, September 26, 2019).

(c) Applicability

This AD applies to Pratt & Whitney Model PW1519G, PW1521G, PW1521GA, PW1524G, PW1525G, PW1521G–3, PW1524G–3, PW1525G–3, PW1919G, PW1921G, PW1922G, PW1923G, and PW1923G–A model turbofan engines that have accumulated fewer than 300 flight cycles since new (CSN) or that have accumulated fewer than 300 flight cycles since installation of v2.11.7 or v2.11.8 electronic engine control (EEC) software.

(d) Subject

Joint Aircraft System Component (JASC) Code 7230, Turbine Engine Compressor Section.

(e) Unsafe Condition

This AD was prompted by a recent in-flight shutdown due to failure of the low-pressure compressor (LPC) rotor 1 (R1) and by findings of cracked LPC R1s during inspections. The FAA is issuing this AD to prevent failure of the LPC R1. The unsafe condition, if not addressed, could result in uncontained release of the LPC R1, damage to the engine, damage to the airplane, and loss of control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

(1) Except for those engines identified in paragraph (g)(2) of this AD, borescope inspect the LPC R1 for damage and cracks at the locations in paragraph (g)(1)(iv) of this AD as follows:

(i) For engines that have accumulated fewer than 300 flight cycles since new (CSN), inspect within 50 flight cycles from September 26, 2019 (the effective date of AD 2019–19–11).

(ii) For engines that have accumulated fewer than 300 flight cycles since installation of v2.11.7 or v2.11.8 electronic engine control (EEC) software, inspect within 50 flight cycles from the effective date of this AD.

(iii) Thereafter, at intervals not to exceed 50 flight cycles until the engine accumulates 300 flight CSN or accumulates 300 flight cycles since the installation of v2.11.7 or v2.11.8 EEC software, whichever occurs later, repeat this borescope inspection for damage and cracks at the locations in paragraph (g)(1)(iv) of this AD.

(iv) Perform the borescope inspection required by paragraphs (g)(1)(i) through (iii) of this AD at the following locations:

(A) the blades tips;

(B) the leading edge;

(C) the leading edge fillet to rotor platform radius; and

(D) the airfoil convex side root fillet to rotor platform radius.

(2) For all affected PW model turbofan engines installed as a ''zero time spare,'' except for PW1519G, PW1521GA and PW1919G model turbofan engines, within 15 flight cycles from the effective date of this AD, and thereafter at intervals not to exceed 15 flight cycles until the engine accumulates 300 flight CSN, perform the borescope inspections required by paragraph (g)(1) of this AD.

(3) As the result of the inspections required by paragraphs (g)(1) and (2) of this AD, before further flight, remove and replace the LPC if:

(i) there is damage on an LPC R1 that exceeds serviceable limits; or

(ii) there is any crack in the LPC R1.

Note 1 to paragraph (g): Guidance on determining serviceable limits can be found in PW Service Bulletin (SB) PW1000G–A–72–00–0125–00A–930A–D, Issue No. 002, dated October 22, 2019, and PW SB PW1000G–A–72–00–0075–00B–930A–D, Issue No. 003, dated October 22, 2019.

(h) Definition

For the purpose of this AD, a ''zero time spare'' is an engine that had zero flight hours time-in-service when it was installed on an airplane after the airplane had entered service.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j) of this AD. You may email your request to: *ANE–AD–AMOC@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(j) Related Information

For more information about this AD, contact Kevin M. Clark, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7088; fax: 781–238–7199; email: *kevin.m.clark@faa.gov.*

(k) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on October 25, 2019.

Karen M. Grant,

Acting Manager, Engine & Propeller Standards Branch, Aircraft Certification Service.

[FR Doc. 2019–23715 Filed 10–25–19; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 862

[Docket No. FDA–2019–N–2484]

Medical Devices; Clinical Chemistry and Clinical Toxicology Devices; Classification of the Continuous Glucose Monitor Data Management System

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA or we) is classifying the continuous glucose monitor data management system into class I (general controls). We are taking this action because we have determined that classifying the device into class I (general controls) will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients' access to beneficial innovative devices, in part by reducing regulatory burdens.

DATES: This order is effective October 29, 2019. The classification was applicable on August 19, 2014.

FOR FURTHER INFORMATION CONTACT: Ryan Lubert, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4545, Silver Spring, MD 20993–0002, 240–402–6357, *ryan.lubert@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the continuous glucose monitor data management system as class I (general controls), which we have determined will provide a reasonable assurance of safety and effectiveness. In addition, we believe this action will enhance patients' access to beneficial innovation, in part by reducing regulatory burdens by placing the device into a lower device class than the automatic class III assignment.

The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial distribution before May 28, 1976, is automatically classified as, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (see 21 U.S.C. 360c(f)(1)). We refer to these devices as ''postamendments devices'' because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (FD&C Act).

FDA may take a variety of actions in appropriate circumstances to classify or reclassify a device into class I or II. We may issue an order finding a new device to be substantially equivalent under section 513(i) of the FD&C Act (21 U.S.C. 360c(i)) to a predicate device that does not require premarket approval. We determine whether a new device is substantially equivalent to a predicate by means of the procedures for premarket notification under section 510(k) of the FD&C Act (21 U.S.C. 360(k) and part 807 (21 CFR part 807).

FDA may also classify a device through ''De Novo'' classification, a common name for the process authorized under section 513(f)(2) of the FD&C Act. Section 207 of the Food and Drug Administration Modernization Act of 1997 established the first procedure for De Novo classification (Pub. L. 105–115). Section 607 of the Food and Drug Administration Safety and Innovation Act modified the De Novo application process by adding a second procedure (Pub. L. 112–144). A device sponsor may utilize either procedure for De Novo classification.

Under the first procedure, the person submits a 510(k) for a device that has not previously been classified. After receiving an order from FDA classifying the device into class III under section 513(f)(1) of the FD&C Act, the person then requests a classification under section 513(f)(2).

Under the second procedure, rather than first submitting a 510(k) and then a request for classification, if the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence, that person requests a classification under section 513(f)(2) of the FD&C Act.

Under either procedure for De Novo classification, FDA shall classify the device by written order within 120 days. The classification will be according to the criteria under section 513(a)(1) of the FD&C Act. Although the device was automatically within class III, the De Novo classification is considered to be the initial classification of the device.

We believe this De Novo classification will enhance patients' access to beneficial innovation, in part by reducing regulatory burdens. When FDA classifies a device into class I or II via the De Novo process, the device can serve as a predicate for future devices of that type, including for 510(k)s (see 21 U.S.C. 360c(f)(2)(B)(i)). As a result, other device sponsors do not have to submit a De Novo request or premarket approval application in order to market a substantially equivalent device (see 21 U.S.C. 360c(i), defining ''substantial equivalence''). Instead, sponsors can use the 510(k) process, when necessary, to market their device.

II. De Novo Classification

On April 22, 2014, DEXCOM, Inc., submitted a request for De Novo classification of the STUDIO on the Cloud Data Management Software. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

We classify devices into class I if general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device for its intended use (see 21 U.S.C. 360c(a)(1)(B)). After review of the information submitted in the request, we determined that the device can be classified into class I. FDA has determined that general controls will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on August 19, 2014, FDA issued an order to the requestor classifying the device into class I. FDA is codifying the classification of the device by adding 21 CFR 862.2120. We have named the generic type of device continuous glucose monitor data management system, and it is identified as an electronic device intended to acquire, process, and correlate retrospective data from a continuous glucose monitoring device. This device is intended to be used by patients or their healthcare providers when determining therapeutic strategies. A continuous glucose monitor data management system is not a drug dose calculator and does not provide treatment recommendations.

FDA has identified the following risks to health associated specifically with this type of device in table 1.

TABLE 1—CONTINUOUS GLUCOSE MONITOR DATA MANAGEMENT SYSTEM RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
Device malfunction (*e.g.*, incorrect data analysis, etc.)	General controls, including design controls.

Section 510(l)(1) of the FD&C Act provides that a device within a type that has been classified into class I under section 513 of the FD&C Act is exempt from premarket notification under section 510(k), unless the device is of substantial importance in preventing impairment of human health or presents a potentially unreasonable risk of illness or injury (21 U.S.C. 360(l)(1)). Devices within this type are exempt from the premarket notification requirements under section 510(k), subject to the limitations of exemptions in 21 CFR 862.9.

III. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Paperwork Reduction Act of 1995

This final order refers to previously approved collections of information found in other FDA regulations and guidance. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in the guidance document ''De Novo Classification Process (Evaluation of Automatic Class III Designation)'' have been approved under OMB control number 0910–0844; the collections of information in 21 CFR part 814, subparts A through E, regarding premarket approval, have been approved under OMB control number 0910–0231; the collections of information in part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120; and the collections of information in 21 CFR part 820, regarding the quality system regulation, including recordkeeping for design controls, have been approved under OMB control number 0910–0073.

List of Subjects in 21 CFR Part 862

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 862 is amended as follows:

PART 862—CLINICAL CHEMISTRY AND CLINICAL TOXICOLOGY DEVICES

■ 1. The authority citation for part 862 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

■ 2. Add § 862.2120 to subpart C to read as follows:

§ 862.2120 Continuous glucose monitor data management system.

(a) *Identification.* A continuous glucose monitor data management system is an electronic device intended to acquire, process, and correlate retrospective data from a continuous glucose monitoring device. This device is intended to be used by patients or their healthcare providers when determining therapeutic strategies. A continuous glucose monitor data management system is not a drug dose calculator and does not provide treatment recommendations.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 862.9.

Dated: October 23, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–23471 Filed 10–28–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0857]

RIN 1625–AA00

Safety Zone; Naval Training Operations, U.S. Naval Magazine Indian Island, WA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 500-yard radius of Walan Point, Indian Island, WA. This safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards due to naval training operations. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Puget Sound.

DATES: This rule is effective from 8 a.m. on October 30, 2019, to 4 p.m. on October 31, 2019, and will be subject to enforcement each of these days from 8 a.m. to 4 p.m.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0857 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Ellie Wu, Sector Puget Sound Waterways Management Division, U.S. Coast Guard; telephone (206) 217–6051, email *SectorPugetSoundWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because issuing an NPRM is impracticable. The Coast Guard received notification of these naval training operations from the U.S. Navy on October 7, 2019, and we must take action by October 30, 2019, to protect the public from potential hazards implicated by these training operations. Delaying issuance of this temporary final rule to publish an NPRM and consider comments in response to the NPRM is impracticable, because the safety zone must be in place for the operation, which begins on October 30, 2019.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because of the danger associated with these training operations, which may include but is not limited to high-speed maneuvers, simulated attacks, and the firing of blank ammunition. This rule must be effective starting October 30, 2019, to protect vessels, personnel, and the marine environment from potential hazards associated with these training operations.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (formerly 33 U.S.C. 1231). The Captain of the Port Puget Sound (COTP) has determined that potential hazards exist with this naval training operation. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone from potential hazards posed by the naval training operation.

IV. Discussion of the Rule

This rule establishes a safety zone regulation from 10 a.m. on October 30, 2019, to 4 p.m. on October 31, 2019. This regulation will only be subject to enforcement for the following 8-hour period each of these 2 days: 8 a.m. to 4 p.m.

The safety zone will cover navigable waters within a 500-yard radius of Walan Point, Indian Island.

The duration of this regulation is intended to protect personnel, vessels, and the marine environment in these navigable waters while naval training operations are taking place. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration of the safety zone. Vessel traffic will be able to safely transit around this safety zone which would impact a small designated area of the waterway on the western side of U.S. Naval Magazine Indian Island. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule will allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C.

605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting only 16 hours in total, which will prohibit entry within designated zone during naval training operations. It is categorically excluded from further review under paragraph L60(a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T13–0857 to read as follows:

§ 165.T13–0857 Safety Zone; Naval Training Operations, U.S. Naval Magazine Indian Island, Washington.

(a) *Location.* The following area is a safety zone: All navigable waters within a 500 yards radius of Walan Point, Indian Island, WA.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Puget Sound in the enforcement of the safety zone.

(c) *Regulations.* In accordance with the general regulations in Part 165, Subpart C, no persons or vessels may enter or remain in the safety zone created in this unless authorized by the Captain of the Port or their designated representative. For permission to enter the safety zone, contact the on-scene designated representative or Joint Harbor Operations Center via VHF CH16 or at 206–217–6002. Those in the safety zone must comply with all lawful orders or directions given to them by the Captain of the Port or their designated representative.

(d) *Enforcement periods.* This section will be enforced from 8 a.m. to 4 p.m. daily, on October 30, 2019, and October 31, 2019.

Dated: October 21, 2019.

L.A. Sturgis,

Captain, U.S. Coast Guard, Captain of the Port Puget Sound.

[FR Doc. 2019–23401 Filed 10–28–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0803]

RIN 1625–AA11

Regulated Navigation Area; Saint Simons Sound, GA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary regulated navigation area (RNA) for the navigable waters in Saint Simons Sound, GA, as set out in the regulatory text at the end of this document. Entry of vessels greater than 500 gross tons into this area is prohibited, unless specifically authorized by the Captain of the Port (COTP) Savannah. The RNA is needed to protect personnel, vessels, and the marine environment from potential hazards created by salvage and pollution response operations taking place near the grounded freight vessel GOLDEN RAY.

DATES: This rule is effective without actual notice from October 29, 2019 through January 29, 2021. For the purposes of enforcement, actual notice will be used from September 19, 2019 through October 29, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0794 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Lauren Bloch, Marine Safety Unit Savannah Office of Waterways Management, Coast Guard; telephone 912–652–4353, extension 232, or email *Lauren.E.Bloch@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
RNA Regulated Navigation Area
COTP Captain of the Port
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the freight vessel GOLDEN RAY capsized and grounded in Saint Simons Sound, GA on September 8, 2019. Immediate action is needed to aid in the directing of vessel traffic through the Port of Brunswick in the vicinity of the M/V GOLDEN RAY. It is impracticable to publish an NPRM because we must establish this RNA by September 19, 2019.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action is needed to respond to the potential hazards associated with operations in response to the M/V GOLDEN RAY casualty.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The COTP Savannah has determined that an RNA is needed to allow vessels greater than 500 gross tons to transit safely through the area. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the RNA during salvage and pollution operations in response to the M/V GOLDEN RAY casualty.

IV. Discussion of the Rule

This rule establishes an RNA on September 19, 2019. The RNA will cover all navigable waters in Saint Simons Sound, GA bounded by a line drawn from a point located at 31°07′48.84″ N, 081°23′30.67″ W, thence to 31°07′29.38″ N, 081°23′37.15″ W, thence to 31°07′51.43″ N, 081°16′23.57″ W, thence to 31°08′07.28″ N, 081°24′48.08″ W, thence to 31°07′22.87″ N, 081°24′38.78″ W, thence to 31°07′40″ N, 081°25′01″ W. No vessel greater than 500 gross tons may enter the RNA without the prior approval of the COTP Savannah. Upon approval from the COTP each vessel will be provided an authorized timeframe to transit the RNA. Only one-way traffic is allowed through the RNA at all times. When transiting through the RNA all vessels greater than 500 gross tons must have one assist tug, establish and maintain communications with the designated representative of the COTP via VHF–FM radio on channel 13, and not exceed a speed of 8 knots, unless greater speeds are required to maintain bare steerage. Any vessel unable to meet these operating limitations may, with good cause, seek authorization from the COTP Savannah to deviate from these requirements.

The RNA is intended to protect personnel, vessels, and the marine environment in these navigable waters and provide a safe working environment for personnel and vessels responding to the M/V GOLDEN RAY casualty.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the RNA size, location, notice, duration and provided exceptions. Vessel traffic will be able to safely transit through this RNA which would impact a small designated area of Saint Simons Sound, GA; the size and location of this RNA is limited to an area in the immediate vicinity of the grounded M/V GOLDEN RAY. The Coast Guard will provide mariners notice of the RNA through a Broadcast Notice to Mariners via VHF–FM radio channel 16. Additionally, the RNA is limited in duration. It will remain in effect until the COTP Savannah determines the M/V GOLDEN RAY is no longer a hazard to the safety of persons and vessels transiting the area. Lastly, this RNA will allow vessels to seek permission from the COTP to enter the area.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the RNA may be small entities, for the reasons stated in section V. A. above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves an RNA for the navigable waters in Saint Simons Sound, GA bounded by a line drawn from a point located at 31°07′48.84″ N, 081°23′30.67″ W, thence to 31°07′29.38″ N, 081°23′37.15″ W, thence to 31°07′51.43″ N, 081°16′23.57″ W, thence to 31°08′07.28″ N, 081°24′48.08″ W, thence to 31°07′22.87″ N, 081°24′38.78″ W, thence to 31°07′40″ N, 081°25′01″ W. It is categorically excluded from further review under paragraph L[60a] in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T07–0803 to read as follows:

§ 165.T07–0803 Regulated navigation area; Saint Simons Sound, GA.

(a) *Location.* The following area is a regulated navigation area (RNA): All navigable waters of Saint Simons Sound, GA bounded by a line drawn from a point located at 31°07′48.84″ N, 081°23′30.67″ W, thence to 31°07′29.38″ N, 081°23′37.15″ W, thence to 31°07′51.43″ N, 081°16′23.57″ W, thence to 31°08′07.28″ N, 081°24′48.08″ W, thence to 31°07′22.87″ N, 081°24′38.78″ W, thence to 31°07′40″ N, 081°25′01″ W. All coordinates are North American Datum 1983 (NAD 83).

(b) *Definition.* As used in this section, *designated representative* of the Captain of the Port Savannah (COTP) is any Coast Guard commissioned, warrant or petty officer, or federal, state, local agency, who has been designated by the COTP Savannah to assist in the patrol or enforcement of the regulated area.

(c) *Regulations.* In addition to the general RNA regulations in § 165.13, the regulations in paragraphs (c)(1) through (8) of this section apply to the RNA described in paragraph (a) of this section.

(1) All vessels greater than 500 gross tons intending to transit through the RNA must seek prior approval from the COTP Savannah at least 24-hours in advance of the vessel's arrival to, or departure from, the Port of Brunswick. The COTP Savannah can be contacted via telephone at 614–943–5532. The COTP Savannah's designated representative can be contacted on VHF–FM radio channel 13. Upon

approval to enter the RNA, the COTP Savannah will provide an approved timeframe a vessel may enter the RNA.

(2) Only one-way traffic is authorized within the RNA at all times.

(3) All vessels greater than 500 gross tons must obtain one assist tug while transiting within the RNA.

(4) All vessels greater than 500 gross tons must check in with the designated representative via VHF–FM Channel 13 prior to transiting within the RNA and maintain communications with the designated representative while transiting through the RNA.

(5) While transiting within the RNA all vessels greater than 500 gross tons may not exceed a speed of 8 knots, unless greater speeds are required to maintain bare steerage.

(6) Any vessel unable to meet these operating limitations may, upon showing good cause, seek authorization from the COTP Savannah to deviate from the requirements in this section.

(7) The operator of any vessel transiting in RNA must comply with all lawful directions given by the COTP or the COTP's designated representative.

(8) The inland navigation rules in 33 CFR subchapter E remain in effect within the RNA and must be followed at all times.

Dated: September 19, 2019.

Eric C. Jones,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 2019–23539 Filed 10–28–19; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2019–0147; FRL–10001–32–Region 9]

Air Plan Approval; California; Calaveras County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the Calaveras County Air Pollution Control District (CCAPCD) portion of the California State Implementation Plan (SIP). This revision concerns reporting of emissions of volatile organic compounds (VOCs) and oxides of nitrogen (NO_X) in ozone nonattainment areas. We are approving a local rule that applies to certain emission sources under the Clean Air Act (CAA or the Act).

DATES: This rule will be effective on November 29, 2019.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2019–0147. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Nancy Levin, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105. By phone: (415) 972–3848 or by email at *levin.nancy@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us," and "our" refer to the EPA.

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I. Proposed Action

The CCAPCD is a "Marginal" nonattainment area for the 2008 and 2015 ozone national ambient air quality standards (NAAQS). CAA section 182(a)(3)(B)(i) requires states with ozone nonattainment areas to require certified emission statements from stationary sources of VOC and NO_X. Pursuant to this requirement, the EPA proposed to approve the following rule submitted by the CCAPCD into the California SIP on May 8, 2019 (84 FR 20071).

Local agency	Rule No.	Rule title	Adopted	Submitted
CCAPCD	513	Source Recordkeeping and Emission Statement	06/26/2018	11/21/2018

Rule 513 requires the owner or operator of any stationary source that emits or may emit VOC or NO_X to provide the District Air Pollution Control Officer with a certified, written emissions statement showing actual emissions or operational data allowing the District to estimate actual emissions from that source. We proposed to approve this rule because we determined that it complies with the relevant CAA requirements. We approved an earlier version of Rule 513, then numbered Rule 408 "Source Recordkeeping and Reporting," into the SIP on May 11, 1977 (42 FR 23804). Our proposed action contains more information on the rule and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period that closed on June 7, 2019. During this period, we received two comments. One comment supported the proposed action, and the EPA does not provide a response to this comment. The remaining comment is summarized below, with the EPA response:

Comment: The commenter states that the EPA should not approve the rule because it does not require recordkeeping retention. The commenter states that New Source Performance Standard (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) rules require a 5-year record retention period, and that guidance documents we reference say that records should be kept for five years. Commenter cites a prior version of the proposed rule that required a 2-year record retention period.

Response: Generally, the EPA requires records retention periods for certain types of rules (such as NSPS and NESHAP) so that an inspector can review records at a later date if any compliance issues arise with required emission limits, control measures, or test methods. For example, if a landfill facility claimed to have been complying with the Municipal Solid Waste Landfill NSPS (40 CFR part 60, subpart WWW) in the last 5 years by routing all of its collected gas to a control system designed and operated to reduce nonmethane organic compounds

(NMOC) by 98%,[1] an inspector would need records to verify the percentage reduction of NMOC achieved by the control device during that time,[2] and records of the average combustion temperature measured at least every 15 minutes to compare to the temperature during the performance test.[3]

However, unlike a rule that is prohibitory in nature, *i.e.,* that limits or controls the activity of a source of air pollution and requires recordkeeping to verify compliance with CAA requirements, Calaveras County Rule 513 is an annual emissions reporting rule that is administrative in nature and does not require recordkeeping to verify compliance. While the EPA generally recommends recordkeeping as a best practice, the measure of compliance for the source per Rule 513 is whether the source reports its emissions annually to the District (or State); therefore, a records retention period is not required to determine compliance with the rule. Further, the text of CAA section 182(a)(3)(B)(i) does not mention records retention requirements and the EPA is aware of no regulations or guidance, including the guidance cited in our proposed rulemaking, mandating that states must impose records retention requirements on sources in their SIP submission addressing emissions statements under CAA section 182(a)(3)(B)(i).

III. EPA Action

No comments were submitted that change our assessment of the rule as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving this rule into the California SIP.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Calaveras County rule described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

[1] 40 CFR part 60, subpart WWW—Standards of Performance for Municipal Solid Waste Landfills at § 60.752(b)(2)(iii)(B).

[2] 40 CFR 60.758(b)(2)(ii).

[3] 40 CFR 60.758(b)(2)(i).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 30, 2019. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 4, 2019.

Deborah Jordan,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(28)(iv)(E) and (c)(527) to read as follows:

§ 52.220 Identification of plan-in part.

* * * * *

(c) * * *

(28) * * *

(iv) * * *

(E) Previously approved on May 11, 1977 in paragraph (c)(28)(iv)(A) of this section and now deleted with replacement in paragraph (c)(527)(i)(A)(*1*) of this section, Rule 408, ''Source Recordkeeping and Reporting,'' effective December 16, 1974.

* * * * *

(527) New regulations for the following APCDs were submitted on November 21, 2018 by the Governor's designee.

(i) *Incorporation by reference.* (A) Calaveras County Air Pollution Control District.

(*1*) Rule 513, ''Source Recordkeeping and Emission Statement,'' adopted on June 26, 2018.

(*2*) [Reserved]

(B) [Reserved]

(ii) [Reserved]

[FR Doc. 2019–23377 Filed 10–28–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2018–0819; FRL–10001–49–Region 4]

Air Plan Approval; Georgia; Revisions to Sulfur Dioxide Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Georgia through the Georgia Environmental Protection Division (EPD) through a letter dated July 31, 2018. EPA is approving into the SIP a modification to Georgia's Ambient Air Quality Standards regulation. The SIP revision updates Georgia's air quality standards for sulfur dioxide (SO_2) to be consistent with the National Ambient Air Quality Standards (NAAQS). EPA is approving the SIP revision because the change is consistent with the Clean Air Act (CAA or Act) and Federal regulations.

DATES: This rule will be effective November 29, 2019.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2018–0819. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tiereny Bell, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9088. Ms. Bell can also be reached via electronic mail at *bell.tiereny@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On June 22, 2010, EPA promulgated a revised primary SO_2 NAAQS. The revised SO_2 NAAQS is an hourly standard of 75 parts per billion (ppb), based on a 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. The June 22, 2010 action that promulgated the revised primary SO_2 NAAQS also addressed revocation of the 1971 24-hour and annual primary SO_2 NAAQS. *See* 75 FR 35520. Pursuant to the June 22, 2010 action and 40 CFR 50.4, the 1971 primary SO_2 annual and 24-hour NAAQS will continue to apply in an area until one year after the effective date of the designation of that area for the 2010 SO_2 NAAQS. *See* 42 U.S.C. 7407; 40 CFR 50.17.[1]

Accordingly, in the July 31, 2018,[2] SIP submittal, Georgia revised Rule 391–3–1–.02(4)(b) to provide clarity that the 1971 standard continues to apply in Georgia.[3] Specifically, the changes reflect the historical and current NAAQS for SO_2 and update the former primary SO_2 NAAQS for the 1971 annual and 24-hour ambient air quality standards to be consistent with the Federal regulations. The SIP submission can be found in the docket for this rulemaking at *www.regulations.gov.*

In a notice of proposed rulemaking (NPRM) published on July 2, 2019 (84 FR 31540), EPA proposed to approve the revision to the Georgia air quality rules addressing Rule 391–3–1–.02(4), *Ambient Air Standards,* into the Georgia SIP.[4] Comments on the NPRM were due on or before August 1, 2019. EPA received no comments on the proposed action. Consistent with the NPRM, which contains additional detail on the submittal, EPA's analysis, and EPA's rationale for approval, EPA is now taking final action to approve the above-referenced revision.

II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Georgia Rule 391–3–1–.02(4), *Ambient Air Standards,* paragraph (b) *Sulfur Dioxide,* State-effective July 23, 2018, which updates the former primary SO_2 NAAQS for the 1971 annual and 24-hour ambient air quality standards to be consistent with the Federal regulations. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the

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[1] *See* 75 FR at 35581. No areas in Georgia were designated as nonattainment for the 1971 standards at the time of promulgation of the 2010 1-hour SO_2 annual and 24-hour SO_2 standards. *See id.*

[2] EPA received the SIP revision on August 2, 2018.

[3] *See* 40 CFR 81.311 for designated areas in the State of Georgia for the 2010 SO_2 standard. EPA notes that Floyd County is the only county in Georgia that has not yet been designated for the 2010 SO_2 standard, and thus is still subject to the 1971 annual and 24-hour SO_2 standards. *See* 81 FR 45039 (July 12, 2016); 83 FR 1098 (January 9, 2018).

[4] As discussed in the NPRM, EPA received several SIP revisions from Georgia through the July 31, 2018, letter and is considering action on the additional SIP revisions in separate actions.

SIP, have been incorporated by reference by EPA into that plan, are fully Federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[5]

III. Final Action

EPA is taking final action to approve the State of Georgia's July 31, 2018, SIP submission revising Rule 391–3–1–.02(4), *Ambient Air Standards,* paragraph (b) *Sulfur Dioxide.* This revision is consistent with the CAA.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this final action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *December 30, 2019.* Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: October 10, 2019.

Mary S. Walker,

Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401 *et seq.*

Subpart L—Georgia

■ 2. Section 52.570(c), is amended under Emission Standards by revising the entry for ''391–3–1-.02(4)'' to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED GEORGIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
391–3–1-.02(4)	Ambient Air Standards	7/23/2018	10/29/2019, [Insert citation of publication].	Except paragraphs (a), (c), (d), (e), (f), (g), and (h), approved on 12/4/2018 with a State-effective date of 7/20/2017.
*	*	*	*	*

[5] *See* 62 FR 27968 (May 22, 1997).

* * * * *

[FR Doc. 2019–23376 Filed 10–28–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2019–0422; FRL–10000–88–Region 9]

Air Plan Approval; California; Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the Ventura County Air Pollution Control District (VCAPCD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of oxides of nitrogen (NO_X) from natural gas-fired water heaters. We are approving a local rule that regulates these emission sources under the Clean Air Act (CAA or the Act).

DATES: This rule will be effective on November 29, 2019.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2019–0422. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Robert Schwartz, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3286 or by email at *schwartz.robert@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to the EPA.

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I. Proposed Action
II. Public Comments and EPA Responses
III. EPA Action
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V. Statutory and Executive Order Reviews

I. Proposed Action

On August 2, 2019 (84 FR 37816), the EPA proposed to approve the following rule into the California SIP.

Local agency	Rule No.	Rule title	Revised	Submitted
VCAPCD	74.11	Natural Gas-Fired Water Heaters	5/11/2010	6/21/2011

We proposed to approve this rule because we determined that it complies with the relevant CAA requirements. Our proposed action and related Technical Support Document (TSD) contain more information on the rule and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

Pursuant to section 110(k)(3) of the Act and based on the evaluation and rationale presented in our August 2, 2019 proposed rule, the EPA is taking final action to approve VCAPCD Rule 74.11 (Natural Gas-Fired Water Heaters) as a revision to the Ventura County portion of the California SIP.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the VCAPCD rule described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, this document available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 30, 2019. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: September 11, 2019.

Kerry Drake,

Acting Regional Administrator, Region IX.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(164)(i)(C)(*6*) and (c)(391)(i)(D) to read as follows:

§ 52.220 Identification of plan-in part.

* * * * *

(c) * * *

(164) * * *

(i) * * *

(C) * * *

(*6*) Previously approved on September 24, 1999 in paragraph (c)(164)(i)(C)(*4*) of this section and now deleted with replacement in paragraph (c)(391)(i)(D)(*1*) of this section, Rule 74.11 as adopted on April 9, 1985.

* * * * *

(391) * * *

(i) * * *

(D) Ventura County Air Pollution Control District.

(*1*) Rule 74.11, ''Natural Gas-Fired Water Heaters,'' revised on May 11, 2010.

(*2*) [Reserved]

* * * * *

[FR Doc. 2019–23378 Filed 10–28–19; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 190325272–9537–02]

RIN 0648–XG925

Pacific Island Pelagic Fisheries; 2019 Commonwealth of the Northern Mariana Islands Bigeye Tuna Fishery; Closure

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is closing the U.S. pelagic longline fishery for bigeye tuna in the western and central Pacific Ocean (WCPO) because the fishery will reach the 2019 allocation limit for the Commonwealth of the Northern Mariana Islands (CNMI). This action is necessary to comply with regulations managing this fish stock.

DATES: Effective 12:01 a.m. local time November 4, 2019, through December 31, 2019.

FOR FURTHER INFORMATION CONTACT: Jarad Makaiau, NMFS PIRO Sustainable Fisheries, 808–725–5176.

SUPPLEMENTARY INFORMATION: On July 17, 2019, NMFS specified a 2019 catch limit of 2,000 t of longline-caught bigeye tuna for the U.S. territories of American Samoa, Guam and the CNMI (84 FR 34321, July 18, 2019). NMFS also authorized each territory to allocate up to 1,000 t of its 2,000 t bigeye tuna limit to U.S. longline fishing vessels permitted to fish under the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (FEP). The limit is effective from July 17, 2019, through December 31, 2019.

On July 18, 2019, the Western Pacific Fishery Management Council (Council), through its Executive Director, transmitted to NMFS a specified fishing agreement between the CNMI and the Hawaii Longline Association (HLA) dated June 13, 2019. NMFS reviewed the agreement and determined that it was consistent with the requirements at 50 CFR 665.819, the FEP, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable laws (84 FR 37592, August 1, 2019). The criteria that a specified fishing agreement must meet, and the process for attributing longline-caught bigeye tuna, followed the procedures in 50 CFR 665.819—Territorial catch and fishing effort limits.

In accordance with 50 CFR 300.224(d) and 50 CFR 665.819(c)(9)(i), NMFS began attributing bigeye tuna caught in the WCPO by vessels identified in the CNMI/HLA agreement to the CNMI, beginning on July 20, 2019. NMFS monitored catches of longline-caught bigeye tuna by the CNMI longline fishery, including catches made by U.S. longline vessels operating under the CNMI/HLA agreement. Based on this monitoring, NMFS forecasted that the CNMI territorial allocation limit of 1,000 t will be reached by November 4, 2019, and is, as an accountability measure, prohibiting the catch and retention of longline-caught bigeye tuna by vessels in the CNMI/HLA agreement.

Notice of Closure and Temporary Rule

Effective 12:01 a.m. local time November 4, 2019, through December 31, 2019, NMFS closes the U.S. pelagic longline fishery for bigeye tuna in the WCPO as a result of the fishery reaching the 2019 allocation limit of 1,000 t for the CNMI.

During the closure, a U.S. fishing vessel operating under the CNMI/HLA agreement may not retain on board, transship, or land bigeye tuna captured by longline gear in the WCPO, except that any bigeye tuna already on board a fishing vessel upon the effective date of the restrictions may be retained on board, transshipped, and landed, provided that they are landed within 14 days of the start of the closure; that is, by November 18, 2019. Additionally, U.S. fishing vessels operating under the CNMI/HLA agreement are also prohibited from transshipping bigeye tuna caught in the WCPO by longline gear to any vessel other than a U.S. fishing vessel with a valid permit issued under 50 CFR 660.707 or 665.801.

However, any vessel included in the CNMI/HLA agreement that is included in a valid specified fishing agreement with another U.S. territory, may continue to transship, retain, and land bigeye tuna caught by longline gear in the WCPO. Additionally, if any such vessel is engaged in a longline fishing trip in the WCPO on November 4, 2019, that vessel would not need to return to port before November 18, 2019. NMFS would announce any subsequent valid specified fishing agreement in the **Federal Register**.

Additionally, during the effective period of the restrictions, longline-caught bigeye tuna may be retained on board, transshipped, and landed if the fish are caught by a vessel with a valid American Samoa longline permit; or if the fish are landed in the U.S. territories. In these cases, the following conditions must be met:

(1) The fish is not caught in the U.S. exclusive economic zone (EEZ) around Hawaii;

(2) Other applicable laws and regulations are followed; and

(3) The vessel has a valid permit issued under 50 CFR 660.707 or 665.801.

Classification

There is good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment on this action, because it would be impracticable and contrary to public interest, as discussed below. This rule closes the U.S. longline fishery for bigeye tuna in the WCPO as a result of reaching the bigeye tuna allocation limit established by the 2019 specification for catch and allocation limits of bigeye tuna for the CNMI, and the specified fishing agreement between the Government of the CNMI and HLA dated, June 13, 2019.

NMFS forecasted that the fishery would reach the 2019 CNMI allocation limit by November 4, 2019. Fishermen have been subject to longline bigeye tuna limits in the WCPO since 2009. They have received ongoing, updated information about the 2019 catch and progress of the fishery in reaching the U.S. bigeye tuna limit via the NMFS website, social media, and other means. The publication timing of this rule, moreover, provides longline fishermen with seven days' advance notice of the closure date, and allows two weeks to return to port and land their catch of bigeye tuna. This action is intended to comply with regulations managing this stock, and, accordingly NMFS finds it impracticable and contrary to the public interest to have prior notice and public comment.

For the reasons stated above, there is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for this temporary rule. NMFS must close the fishery to ensure that fishery does not exceed the allocation limit. NMFS implemented the catch and allocation limits for the CNMI consistent with management objectives to sustainably manage the bigeye tuna stock. Failure to close the fishery before the limit is reached would be inconsistent with bigeye tuna management objectives and in violation of Federal law.

This action is required by 50 CFR 665.819(d), and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 23, 2019.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2019–23526 Filed 10–28–19; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 84, No. 209
Tuesday, October 29, 2019

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0725; Product Identifier 2019–NM–099–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. This proposed AD was prompted by a report that easy removal of the portable oxygen bottle from its support bracket may not always be possible on certain installations. This proposed AD would require installation of a modified top bracket and new middle bracket on all affected portable oxygen bottle installations. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by December 13, 2019.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; phone: 514–855–5000; fax: 514–855–7401; email: *thd.crj@aero.bombardier.com;* internet: *http://www.bombardier.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0725; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (phone: 800–647–5527) is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Darren Gassetto, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7323; fax: 516–794–5531; email: *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2019–0725; Product Identifier 2019–NM–099–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM because of those comments.

The FAA will post all comments received, without change, to *http://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about this NPRM.

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2019–18, dated May 10, 2019 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. The MCAI states:

> Bombardier Inc. has discovered that easy removal of the portable oxygen bottle from its support bracket may not always be possible on some portable oxygen bottle installations due to the latch of the upper bracket assembly catching on the pressure gauge tube or on the pressure gauge bezel of the portable oxygen bottle. The portable oxygen bottle is required to be accessible for use by cabin crew members in emergency situations. This [Canadian] AD requires installation of a modified top bracket and new middle bracket on all affected portable oxygen bottle installations to improve portable oxygen bottle accessibility.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0725.

Related Service Information Under 1 CFR Part 51

Bombardier has issued the following service information. The service information describes procedures for installation of a modified top bracket and new middle bracket on all affected portable oxygen bottle installations. These documents are distinct since they apply to different airplane models in different configurations.

- Service Bulletin 700–1A11–35–013, dated July 3, 2018.
- Service Bulletin 700–35–014, dated July 3, 2018.
- Service Bulletin 700–35–5003, Revision 01, dated November 23, 2018.
- Service Bulletin 700–35–6003, Revision 02, dated November 23, 2018.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of

Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed Requirements of This NPRM

This proposed AD would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

The FAA estimates that this proposed AD affects 108 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
2 work-hours × $85 per hour = $170 per installation	$1,575 per installation	$1,745 per installation	$188,460 per installation.

According to the manufacturer, some or all of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. The FAA does not control warranty coverage for affected individuals. As a result, the FAA has included all known costs in the cost estimate.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

This proposed AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes and associated appliances to the Director of the System Oversight Division.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Bombardier, Inc.: Docket No. FAA–2019–0725; Product Identifier 2019–NM–099–AD.

(a) Comments Due Date

The FAA must receive comments by December 13, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the following Bombardier, Inc., airplanes, certificated in any category.

(1) Model BD–700–1A10, serial numbers 9002, 9006 through 9010 inclusive, 9012, 9016, 9018 through 9023 inclusive, 9029 through 9031 inclusive, 9033, 9035 through 9037 inclusive, 9039 through 9048 inclusive, 9058, 9059, 9061, 9063, 9066 through 9068 inclusive, 9070, 9071, 9073 through 9075 inclusive, 9078, 9085, 9090, 9092, 9093, 9097, 9105, 9106, 9108, 9112, 9121, 9122, 9124, 9137, 9139, 9143, 9145, 9153, 9167, 9177, 9181, 9183, 9185, 9187, 9191, 9203, 9205, 9210, 9223, 9234, 9236, 9244, 9250, 9264, 9270, 9272, 9283, 9286, 9294, 9304, 9312, 9314, 9326, 9333, 9364, 9368, 9378, 9381, 9388, 9407, 9419, 9438, 9460, 9470, 9475, 9478, 9479, 9481, 9484, 9485, 9499, 9524, 9529, 9530, 9533, 9538, 9551, 9553, 9568, 9598, 9615, 9624, 9632, 9638, 9640, 9641, 9648, 9657, 9670, 9680, 9682, 9689, 9700, 9706, 9723, 9726, 9730, 9731, 9745, 9752, 9753, 9757, 9759, 9773, 9775, 9804, 9814, 9816, and 9817.

(2) Model BD–700–1A11, serial numbers 9176, 9178, 9182, 9207, 9212, 9216, 9217, 9227, 9255, 9285, 9376, 9389, 9401, 9427, 9480, 9483, 9498, 9513, 9531, 9536, 9555, 9558, 9569, 9581, 9589, 9592, 9597, 9613, 9618, 9660, 9710, 9722, 9732, 9734, 9737, 9768, 9777, and 9790.

(d) Subject

Air Transport Association (ATA) of America Code 35, Oxygen.

(e) Reason

This AD was prompted by a report that easy removal of the portable oxygen bottle from its support bracket may not always be possible on certain installations. The FAA is issuing this AD to address inaccessible portable oxygen bottles, which may not be available to the flightcrew in emergency situations.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Definition

For the purposes of this AD, an affected portable oxygen bottle installation is defined as one that is installed in any of the airplanes specified in paragraphs (c)(1) and (2) of this AD.

(h) Installation of Modified Top Bracket and New Middle Bracket

Within 60 months after the effective date of this AD, install a modified top bracket and new middle bracket on all affected portable oxygen bottle installations in accordance with paragraph 2.B. of the Accomplishment Instructions of the applicable service information specified in figure 1 to paragraph (h) of this AD.

Figure 1 to paragraph (h): *Service information*

Airplane Model	Service Information
Model BD-700-1A10	Bombardier Service Bulletin 700-35-014, dated July 3, 2018
Model BD-700-1A10	Bombardier Service Bulletin 700-35-6003, Revision 02, dated November 23, 2018
Model BD-700-1A11	Bombardier Service Bulletin 700-1A11-35-013, dated July 3, 2018
Model BD-700-1A11	Bombardier Service Bulletin 700-35-5003, Revision 01, dated November 23, 2018

(i) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (h) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 700–35–5003, dated July 3, 2018; or Bombardier Service Bulletin 700–35–6003, dated July 3, 2018; or Bombardier Service Bulletin 700–35–6003, Revision 01, dated September 5, 2018; as applicable.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7300; fax: 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2019–18, dated May 10, 2019, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0725.

(2) For more information about this AD, contact Darren Gassetto, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7323; fax: 516–794–5531; email: *9-avs-nyaco-cos@faa.gov.*

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; phone: 514–855–5000; fax: 514–855–7401; email: *thd.crj@aero.bombardier.com;* internet: *http://www.bombardier.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on October 22, 2019.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–23528 Filed 10–28–19; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 23, 43, 45, and 49

RIN 3038–AE32

Certain Swap Data Repository and Data Reporting Requirements

AGENCY: Commodity Futures Trading Commission.

ACTION: Extension of comment period.

SUMMARY: On May 13, 2019, the Commodity Futures Trading Commission (Commission) published in the **Federal Register** a notice of proposed rulemaking (NPRM) titled *Certain Swap Data Repository and Data Reporting Requirements.* The comment period for the NPRM was originally scheduled to close on July 29, 2019. The Commission subsequently extended the comment period for 90 days to October 28, 2019. The Commission is further extending the comment period for this NPRM by an additional 90 days to January 27, 2020.

DATES: The comment period for the NPRM titled *Certain Swap Data Repository and Data Reporting Requirements,* published on May 13, 2019 (84 FR 21044), is extended. Comments are due January 27, 2020.

ADDRESSES: You may submit comments, identified by ''Certain Swap Data Repository and Data Reporting Requirements'' and RIN number 3038–AE32, by any of the following methods:

- *CFTC Comments Portal: https://comments.cftc.gov.* Select the ''Submit Comments'' link for this rulemaking and follow the instructions on the Public Comment Form.
- *Mail:* Send to Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Follow the same instructions as for mail, above.

Please submit your comments using only one of these methods. To avoid possible delays with mail or in-person deliveries, submissions through the CFTC Comments Portal are encouraged.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *https://comments.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act (FOIA), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in 17 CFR 145.9 of the Commission's regulations.

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *https://comments.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT: Benjamin DeMaria, Special Counsel, 202–418–5988, *bdemaria@cftc.gov* or Meghan Tente, Acting Associate Director, 202–418–5785, *mtente@cftc.gov;* Division of Market Oversight, Data and Reporting Branch, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION: On May 13, 2019, the Commission published in the **Federal Register** an NPRM proposing amendments to certain regulations applicable to swap data repositories (SDRs), reporting counterparties, and other market participants.[1] The proposed amendments would, among other things, update requirements for SDRs to verify swap data with reporting counterparties, update requirements to correct swap data errors and omissions, and update and clarify certain SDR operational and governance requirements.

The comment period for the NPRM was scheduled to close on July 29, 2019. The Commission subsequently extended the comment period for the NPRM by an additional 90 days to October 28, 2019.[2] At the request of market participants,[3] the Commission is again extending the comment period for this NPRM for an additional 90 days to January 27, 2020. This extension of the comment period will allow interested persons additional time to analyze the proposal and prepare their comments.

As stated in the NPRM,[4] the Commission anticipates reopening or extending the comment period for this NPRM to coincide with the comment periods for the additional planned rulemakings under the Commission's Roadmap to Achieve High Quality Swaps Data (''Roadmap''),[5] in order to provide market participants with the opportunity to comment collectively on all rulemakings proposed under the Roadmap. The Commission does not anticipate further extending the comment period for this NPRM in the absence of the additional Roadmap rulemakings. In the instance where the additional Roadmap rulemakings are not proposed before the expiration of the extended comment period for this NPRM, the Commission anticipates reopening this comment period when the remaining Roadmap rulemakings are proposed.

Issued in Washington, DC, on October 24, 2019, by the Commission.

Robert Sidman,

Deputy Secretary of the Commission.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix to Certain Swap Data Repository and Data Reporting Requirements—Commission Voting Summary

On this matter, Chairman Tarbert and Commissioners Quintenz, Behnam, Stump, and Berkovitz voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2019–23595 Filed 10–28–19; 8:45 am]

BILLING CODE 6351–01–P

[1] Certain Swap Data Repository and Data Reporting Requirements, 84 FR 21044 (May 13, 2019).

[2] Certain Swap Data Repository and Data Reporting Requirements; Extension of Comment Period, 84 FR 35847 (July 25, 2019).

[3] *See* Letter from International Swaps and Derivatives Association and Securities Industry and Financial Markets Association (October 8, 2019), *available at https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=62212&SearchText=.*

[4] *See* 84 FR at 21045–21046.

[5] *See* CFTC Letter 17–33, Division of Market Oversight Announces Review of Swap Reporting Rules in Parts 43, 45, and 49 of Commission Regulations (July 10, 2017), *available at http://www.cftc.gov/idc/groups/public/@lrlettergeneral/documents/letter/17-33.pdf;* Roadmap to Achieve High Quality Swap Data, *available at http://www.cftc.gov/idc/groups/public/@newsroom/documents/file/dmo_swapdataplan071017.pdf.*

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Parts 127 and 133

[USCBP–2019–0031]

RIN 1515–AE35

Disclosure of Information Regarding Abandoned Merchandise

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: This document provides additional time for interested parties to submit comments on the proposed rule published August 27, 2019, to amend the U.S. Customs and Border Protection (CBP) regulations pertaining to disclosure of information regarding merchandise that was voluntarily abandoned. Based on a request from the public to provide additional time to prepare comments on the proposed rule, CBP is extending the comment period to November 15, 2019.

DATES: The comment period for the proposed rule published August 27, 2019 (84 FR 44790), is extended. Comments must be received on or before November, 15, 2019.

ADDRESSES: You may submit comments, identified by docket number, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments via docket number USCBP–2019–0031.
- *Mail:* Trade and Commercial Regulations Branch, Regulations and Rulings, Office of Trade, U.S. Customs and Border Protection, 90 K Street NE, 10th Floor, Washington, DC 20229–1177.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, Regulations and Rulings, Office of Trade, U.S. Customs and Border Protection, 90 K Street NE, 10th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Alex Bamiagis, Intellectual Property Branch, Regulations and Rulings, Office of Trade, U.S. Customs and Border Protection, (202) 325–0415.

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the proposed rule. CBP also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rule. If appropriate to a specific comment, the commenter should reference the specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

Background

On August 27, 2019, U.S. Customs and Border Protection (CBP) published a document in the **Federal Register** (84 FR 44790), that proposes to amend the CBP regulations pertaining to disclosure of information regarding merchandise bearing suspected counterfeit trademarks that was voluntarily abandoned. The document solicited public comments on the proposed rule and requested that commenters submit their comments on or before October 28, 2019.

Extension of Comment Period

In response to the proposed rule published in the **Federal Register**, CBP has received correspondence from the public requesting an extension of the comment period. CBP has decided to grant the extension. Accordingly, the comment period for the proposed rule is extended to November 15, 2019.

Dated: October 23, 2019.

Alice A. Kipel,

Executive Director, Regulations and Rulings, Office of Trade, U.S. Customs and Border Protection.

[FR Doc. 2019–23542 Filed 10–25–19; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS–NCR–28616; PPNCNAMAS0, PPMPSPD1Z.YM0000]

RIN 1024–AE45

Demonstrations and Special Events on the National Mall and Memorial Parks; Withdrawal

AGENCY: National Park Service; Interior.

ACTION: Proposed rule; withdrawal.

SUMMARY: The National Park Service withdraws the proposed rule that would revise special regulations related to demonstrations and special events at certain national park units in the National Capital Region. The National Park Service no longer intends to prepare a final rule and has terminated the rulemaking process.

DATES: The August 15, 2018 proposed rule (83 FR 40460) is withdrawn as of October 29, 2019.

FOR FURTHER INFORMATION CONTACT: Brian D. Joyner, Chief of Staff, National Park Service, National Mall and Memorial Parks, (202) 245–4468, *NAMA_Superintendent@nps.gov.*

Rob Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2019–23408 Filed 10–28–19; 8:45 am]

BILLING CODE 4312–52–P

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 380

[Docket No. 19–CRB–0005–WR (2021–2025) (Web V)]

Determination of Royalty Rates and Terms for Ephemeral Recording and Digital Performance of Sound Recordings (Web V)

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Proposed rule related to public broadcasters (radio).

SUMMARY: The Copyright Royalty Judges are publishing for comment proposed regulations governing the rates and terms for the digital performances of sound recordings by certain public radio stations and for the making of ephemeral recordings necessary to facilitate those transmissions for the period commencing January 1, 2021, and ending on December 31, 2025.

DATES: Comments and objections, if any, are due no later than November 19, 2019.

ADDRESSES: You may submit comments and proposals, identified by docket number 19–CRB–0005–WR (2021–2025), by any of the following methods:

CRB's electronic filing application: Submit comments and proposals online in eCRB at *https://app.crb.gov/.*

U.S. mail: Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024–0977; or

Overnight service (only USPS Express Mail is acceptable): Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024–0977; or

Commercial courier: Address package to: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, LM–403, 101 Independence Avenue SE, Washington, DC 20559–6000. Deliver to: Congressional Courier Acceptance Site, 2nd Street NE and D Street NE, Washington, DC; or

Hand delivery: Library of Congress, James Madison Memorial Building, LM–401, 101 Independence Avenue SE, Washington, DC 20559–6000.

Instructions: Parties unable to use eCRB must submit an original, two paper copies, and an electronic version on a CD. All submissions must include a reference to the Copyright Royalty Board name and docket number (19–CRB–0005–WR (2021–2025)), as well as the **Federal Register** citation for this proposed rule. All submissions will be posted without change to eCRB at *https://app.crb.gov/* including any personal information provided.

Docket: For access to the docket to read submitted background documents or comments, go to eCRB, the Copyright Royalty Board's electronic filing and case management system, at *https://app.crb.gov/* and search for docket number 19–CRB–0005–WR (2021–2025).

FOR FURTHER INFORMATION CONTACT: Anita Blaine, Program Specialist, by telephone at (202) 707–0078 or email at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION: On September 23, 2019, the Copyright Royalty Judges (Judges) received a joint motion from SoundExchange, Inc. (''SoundExchange''), National Public Radio, Inc. (''NPR''), and the Corporation for Public Broadcasting (''CPB'') (together, the ''Settling Parties'') to adopt a partial settlement of their interests related to Web V royalty rates and terms for 2021–2025 [1] for

[1] Web V is short for Webcasting V. This proceeding is the fifth since Congress enacted the

Continued

certain internet transmissions by public broadcasters, NPR, American Public Media, Public Radio International, Public Radio Exchange, and certain other unnamed public radio stations. Joint Motion to Adopt Partial Settlement, Docket No. 19–CRB–0005–WR (2021–2025). Their interests concern the rule setting minimum copyright royalty fees and terms that the Judges will establish for compulsory copyright licenses for certain internet transmissions of sound recordings by public radio stations for the period from January 1, 2021, through December 31, 2025. SoundExchange, Inc. represents the interests of sound recording copyright owners and performers. The public broadcaster parties are users of the copyrighted material, and CPB provides significant funding for those parties. CPB is the entity that will pay the royalties pursuant to the settlement. The Judges hereby publish the agreed proposal and request comments from the public.

Section 114 of the Copyright Act, title 17 of the United States Code, provides a statutory license that allows for the public performance of sound recordings by means of a digital audio transmission by, among others, eligible nonsubscription transmission services. 17 U.S.C. 114(f). For purposes of the section 114 license, an ''eligible nonsubscription transmission'' is a noninteractive digital audio transmission that does not require a subscription for receiving the transmission. The transmission must also be made as part of a service that provides audio programming consisting in whole or in part of performances of sound recordings the purpose of which is to provide audio or other entertainment programming, but not to sell, advertise, or promote particular goods or services. *See* 17 U.S.C. 114(j)(6).

Services using the section 114 license may need to make one or more temporary or ''ephemeral'' copies of a sound recording to facilitate the transmission of that recording. The section 112 statutory license allows for the making of the necessary ephemeral reproductions. 17 U.S.C. 112(e).

Chapter 8 of the Copyright Act requires the Judges to conduct proceedings every five years to determine the rates and terms for the sections 114 and 112 statutory licenses. 17 U.S.C. 801(b)(1), 804(b)(3)(A). The current proceeding commenced in January 2019 for rates and terms that will become effective on January 1, 2021, and end on December 31, 2025. Pursuant to section 804(b)(3)(A), the Judges published in the **Federal Register** a notice commencing the proceeding and requesting that interested parties submit their petitions to participate. 84 FR 359 (Jan. 24, 2019). NPR [2] and SoundExchange each submitted petitions to participate, as did other parties.

On September 23, 2019, the Settling Parties submitted to the Judges a joint motion to adopt a partial settlement of their interests in the proceeding. The parties requested that the Judges ''endeavor to determine before the deadline for the filing of written rebuttal statements in this Proceeding (January 10, 2020) whether they will adopt the settlement.'' Joint Motion at 1.

compulsory sound recording performance license for webcasting.

Statutory Timing of Adoption of Rates and Terms

Section 801(b)(7)(A) of the Copyright Act authorizes the Judges to adopt royalty rates and terms negotiated by ''some or all of the participants in a proceeding at any time during the proceeding'' provided they are submitted to the Judges for approval. The Judges must provide ''an opportunity to comment on the agreement'' to participants and non-participants in the rate proceeding who ''would be bound by the terms, rates, or other determination set by any agreement. . . .'' 17 U.S.C. 801(b)(7)(A)(i). Participants in the proceeding may also ''object to [the agreement's] adoption as a basis for statutory terms and rates.'' *Id.*

The Judges ''may decline to adopt the agreement as a basis for statutory terms and rates for participants that are not parties to the agreement,'' only ''if any participant [in the proceeding] objects to the agreement and the [Judges] conclude, based on the record before them if one exists, that the agreement does not provide a reasonable basis for setting statutory terms or rates.'' 17 U.S.C. 801(b)(7)(A)(ii).

Proposed Adjustments to Rates and Terms

The Settlement continues the structure of previous settlements between the parties, while increasing the payment to be made by CPB. Joint Motion at 2. Because the Settlement applies to only a closed group of licensees, and has only a single payor (CPB), the Settlement is being submitted to the Judges for adoption as a statutory rate and terms only so that it will be binding on all artists and copyright owners, including those that are not members of SoundExchange. Joint Motion at 2–3. The parties have agreed to continue their prior reporting arrangements but have not included the details of those arrangements in the Settlement, which, they believe, is consistent with guidance that the Judges have provided. Joint Motion at 3 and n.1. The parties have styled their proposed regulations as a replacement subpart D to appear in the Judges' regulations at 37 CFR part 380 and have set forth in proposed new subpart D only regulatory provisions specific to Public Broadcasters, on the assumption that the generally applicable provisions in subpart A will apply to Public Broadcasters to the extent consistent with subpart D. Joint Motion at 6, Attachment A.

[2] NPR is participating on behalf of itself, its member and affiliated stations, and all public radio stations and entities eligible to receive funding from CPB. NPR Petition to Participate at 1 (Feb. 4, 2019).

The public may comment and object to any or all of the proposed regulations contained in this document. Such comments and objections must be submitted no later than November 19, 2019.

List of Subjects in 37 CFR Part 380

Copyright, Sound recordings, Webcasters.

For the reasons set forth in the preamble, the Copyright Royalty Judges propose to amend 37 CFR part 380 as follows:

PART 380—RATES AND TERMS FOR TRANSMISSIONS BY ELIGIBLE NONSUBSCRIPTION SERVICES AND NEW SUBSCRIPTION SERVICES AND FOR THE MAKING OF EPHEMERAL REPRODUCTIONS TO FACILITATE THOSE TRANSMISSIONS

■ 1. The authority citation for part 380 continues to read as follows:

Authority: 17 U.S.C. 112(e), 114(f), 804(b)(3).

■ 2. Revise subpart D to read as follows:

Subpart D—Public Broadcasters

Sec.
380.30 Definitions.
380.31 Royalty fees for the public performance of sound recordings and for ephemeral recordings.
380.32 Terms for making payment of royalty fees and statements of account.

§ 380.30 Definitions.

For purposes of this subpart, the following definitions apply:

Authorized website is any website operated by or on behalf of any Public Broadcaster that is accessed by website Users through a Uniform Resource Locator (''URL'') owned by such Public Broadcaster and through which website

Performances are made by such Public Broadcaster.

CPB is the Corporation for Public Broadcasting.

Music ATH is aggregate tuning hours of website Performances of sound recordings of musical works.

NPR is National Public Radio, Inc.

Originating Public Radio Station is a noncommercial terrestrial radio broadcast station that—

(1) Is licensed as such by the Federal Communications Commission;

(2) Originates programming and is not solely a repeater station;

(3) Is a member or affiliate of NPR, American Public Media, Public Radio International, or Public Radio Exchange, a member of the National Federation of Community Broadcasters, or another public radio station that is qualified to receive funding from CPB pursuant to its criteria;

(4) Qualifies as a ''noncommercial webcaster'' under 17 U.S.C. 114(f)(4)(E)(i); and

(5) Either—

(i) Offers website Performances only as part of the mission that entitles it to be exempt from taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501); or

(ii) In the case of a governmental entity (including a Native American Tribal governmental entity), is operated exclusively for public purposes.

Person is a natural person, a corporation, a limited liability company, a partnership, a trust, a joint venture, any governmental authority or any other entity or organization.

Public Broadcasters are NPR, American Public Media, Public Radio International, and Public Radio Exchange, and up to 530 Originating Public Radio Stations as named by CPB. CPB shall notify SoundExchange annually of the eligible Originating Public Radio Stations to be considered Public Broadcasters per this definition (subject to the numerical limitations set forth in this definition). The number of Originating Public Radio Stations treated per this definition as Public Broadcasters shall not exceed 530 for a given year without SoundExchange's express written approval, except that CPB shall have the option to increase the number of Originating Public Radio Stations that may be considered Public Broadcasters as provided in § 380.31(c).

Side Channel is any internet-only program available on an Authorized website or an archived program on such Authorized website that, in either case, conforms to all applicable requirements under 17 U.S.C. 114.

Term is the period January 1, 2021, through December 31, 2025.

Website is a site located on the World Wide Web that can be located by a website User through a principal URL.

Website Performances are all public performances by means of digital audio transmissions of sound recordings, including the transmission of any portion of any sound recording, made through an Authorized website in accordance with all requirements of 17 U.S.C. 114, from servers used by a Public Broadcaster (provided that the Public Broadcaster controls the content of all materials transmitted by the server), or by a contractor authorized pursuant to § 380.31(f), that consist of either the retransmission of a Public Broadcaster's over-the-air terrestrial radio programming or the digital transmission of nonsubscription Side Channels that are programmed and controlled by the Public Broadcaster; provided, however, that a Public Broadcaster may limit access to an Authorized website, or a portion thereof, or any content made available thereon or functionality thereof, solely to website Users who are contributing members of a Public Broadcaster. This term does not include digital audio transmissions made by any other means.

Website Users are all those who access or receive website Performances or who access any Authorized website.

§ 380.31 Royalty fees for the public performance of sound recordings and for ephemeral recordings.

(a) *Royalty rates.* The total license fee for all website Performances by Public Broadcasters during each year of the Term, up to the total Music ATH set forth in paragraphs (a)(1) through (5) of this section for the relevant calendar year, and Ephemeral Recordings made by Public Broadcasters solely to facilitate such website Performances, shall be $800,000 (the ''License Fee''), unless additional payments are required as described in paragraph (c) of this section. The total Music ATH limits are:

(1) 2021: 360,000,000;

(2) 2022: 370,000,000;

(3) 2023: 380,000,000;

(4) 2024: 390,000,000; and

(5) 2025: 400,000,000.

(b) *Calculation of License Fee.* It is understood that the License Fee includes:

(1) An annual minimum fee for each Public Broadcaster for each year during the Term;

(2) Additional usage fees for certain Public Broadcasters; and

(3) A discount that reflects the administrative convenience to the Collective (for purposes of this subpart, the term ''Collective'' refers to SoundExchange, Inc.) of receiving annual lump sum payments that cover a large number of separate entities, as well as the protection from bad debt that arises from being paid in advance.

(c) *Increase in Public Broadcasters.* If the total number of Originating Public Radio Stations that wish to make website Performances in any calendar year exceeds the number of such Originating Public Radio Stations considered Public Broadcasters in the relevant year, and the excess Originating Public Radio Stations do not wish to pay royalties for such website Performances apart from this subpart, CPB may elect by written notice to the Collective to increase the number of Originating Public Radio Stations considered Public Broadcasters in the relevant year effective as of the date of the notice. To the extent of any such elections, CPB shall make an additional payment to the Collective for each calendar year or part thereof it elects to have an additional Originating Public Radio Station considered a Public Broadcaster, in the amount of the annual minimum fee applicable to Noncommercial Webcasters under subpart B of this part for each additional Originating Public Radio Station per year. Such payment shall accompany the notice electing to have an additional Originating Public Radio Station considered a Public Broadcaster.

(d) *Allocation between ephemeral recordings and performance royalty fees.* The Collective must credit 5% of all royalty payments as payment for Ephemeral Recordings and credit the remaining 95% to section 114 royalties. All Ephemeral Recordings that a Licensee makes which are necessary and commercially reasonable for making noninteractive digital transmissions are included in the 5%.

(e) *Effect of non-performance by any Public Broadcaster.* In the event that any Public Broadcaster violates any of the material provisions of 17 U.S.C. 112(e) or 114 or this subpart that it is required to perform, the remedies of the Collective shall be specific to that Public Broadcaster only, and shall include, without limitation, termination of that Public Broadcaster's right to be treated as a Public Broadcaster per this paragraph (e) upon written notice to CPB. The Collective and Copyright Owners also shall have whatever rights may be available to them against that Public Broadcaster under applicable law. The Collective's remedies for such a breach or failure by an individual Public Broadcaster shall not include termination of the rights of other Public Broadcasters to be treated as Public Broadcasters per this paragraph (e), except that if CPB fails to pay the

License Fee or otherwise fails to perform any of the material provisions of this subpart, or such a breach or failure by a Public Broadcaster results from CPB's inducement, and CPB does not cure such breach or failure within 30 days after receiving notice thereof from the Collective, then the Collective may terminate the right of all Public Broadcasters to be treated as Public Broadcasters per this paragraph (e) upon written notice to CPB. In such a case, a prorated portion of the License Fee for the remainder of the Term (to the extent paid by CPB) shall, after deduction of any damages payable to the Collective by virtue of the breach or failure, be credited to statutory royalty obligations of Public Broadcasters to the Collective for the Term as specified by CPB.

(f) *Use of contractors.* The right to rely on this subpart is limited to Public Broadcasters, except that a Public Broadcaster may employ the services of a third Person to provide the technical services and equipment necessary to deliver website Performances on behalf of such Public Broadcaster, but only through an Authorized website. Any agreement between a Public Broadcaster and any third Person for such services shall:

(1) Obligate such third Person to provide all such services in accordance with all applicable provisions of the statutory licenses and this subpart;

(2) Specify that such third Person shall have no right to make website Performances or any other performances or Ephemeral Recordings on its own behalf or on behalf of any Person or entity other than a Public Broadcaster through the Public Broadcaster's Authorized website by virtue of its services for the Public Broadcaster, including in the case of Ephemeral Recordings, pre-encoding or otherwise establishing a library of sound recordings that it offers to a Public Broadcaster or others for purposes of making performances, but instead must obtain all necessary licenses from the Collective, the copyright owner or another duly authorized Person, as the case may be;

(3) Specify that such third Person shall have no right to grant any sublicenses under the statutory licenses; and

(4) Provide that the Collective is an intended third-party beneficiary of all such obligations with the right to enforce a breach thereof against such third Person.

§ 380.32 Terms for making payment of royalty fees and statements of account.

(a) *Payment to the Collective.* CPB shall pay the License Fee to the Collective in five equal installments of $800,000 each, which shall be due December 31, 2020, and annually thereafter through December 31, 2024.

(b) *Reporting.* CPB and Public Broadcasters shall submit reports of use and other information concerning website Performances as agreed upon with the Collective.

(c) *Terms in general.* Subject to the provisions of this subpart, terms governing late fees, distribution of royalties by the Collective, unclaimed funds, record retention requirements, treatment of Licensees' confidential information, audit of royalty payments and distributions, and any definitions for applicable terms not defined in this subpart shall be those set forth in subpart A of this part.

Dated: October 23, 2019.

Jesse M. Feder,

Chief Copyright Royalty Judge.

[FR Doc. 2019–23486 Filed 10–28–19; 8:45 am]

BILLING CODE 1410–72–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2019–0568, FRL–10001–57–Region 10]

Air Plan Approval; Washington; Update to the Adoption by Reference, Energy Facility Site Evaluation Council

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to revise the Washington State Implementation Plan (SIP) to approve updates to the Energy Facility Site Evaluation Council (EFSEC) air quality regulations. The EFSEC regulations apply to major energy facilities in the State of Washington and establish permitting requirements and emissions standards for such facilities. The EFSEC regulations primarily adopt by reference the Washington Department of Ecology (Ecology) general air quality regulations for program implementation. We are proposing to approve EFSEC's updated adoption by reference to include certain changes to Ecology's general air quality regulations since EFSEC's last adoption by reference, consistent with prior approvals.

DATES: Comments must be received on or before November 29, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2018–0568 at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Jeff Hunt at (206) 553–0256, or *hunt.jeff@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, it is intended to refer to the EPA.

I. Background

By statute, EFSEC has jurisdiction for managing the air program with respect to major energy facilities in the State of Washington. See Chapter 80.50 of the Revised Code of Washington (RCW). The EFSEC air quality regulations are contained in Chapter 463–78 Washington Administrative Code (WAC) *General and Operating Permit Regulations for Air Pollution Sources.* These EFSEC regulations rely primarily on the adoption by reference of the corresponding Ecology general air quality regulations contained in Chapter 173–400 WAC *General Regulations for Air Pollution Sources,* with certain exceptions discussed below.

As discussed in our prior approval of the EFSEC regulations on May 30, 2017 (82 FR 24531), EFSEC's adoption by reference of Chapter 173–400 WAC is modified in several ways. First, references in Chapter 173–400 WAC regarding appeals are modified to reflect EFSEC's independent appeals process in WAC 463–78–140. Second, the cross references to fees under Chapter 173–455 WAC are modified to reflect EFSEC's independent fee structure set out in Chapter 80.50 RCW. Third, while EFSEC generally adopts most of the provisions of Chapter 173–400 WAC by reference, not all provisions are included.

EFSEC did not adopt by reference the enforcement and authority provisions contained in WAC 173–400–220 through 260. For these provisions, EFSEC relies on its own independent authorities, which are currently part of Washington's federally-approved SIP under WAC 463–78–135 through 230. In other cases, such as WAC 173–400–118 *Designation of Class I, II, and III Areas,* WAC 173–400–151 *Retrofit Requirements for Visibility Protection,* and parts of WAC 173–400–070 *Emission Standards for Certain Source Categories,* EFSEC did not adopt these Chapter 173–400 WAC provisions by reference because they pertain to source categories or authorities outside the scope of EFSEC's jurisdiction.

Lastly, many parts of Chapter 173–400 WAC contain provisions that are not related to the criteria pollutants regulated under title I of the CAA, not related to the requirements for SIPs under section 110 of the CAA, or not changed since the EPA's last approval. For this reason, EFSEC's previous SIP revision, submitted on December 20, 2016, requested approval for only those parts of Chapter 173–400 WAC consistent with the EPA's October 3, 2014 (79 FR 59653), November 7, 2014 (79 FR 66291), and April 29, 2015 (80 FR 23721) approvals.

II. Washington SIP Revisions

On September 30, 2019, Ecology submitted EFSEC's updated adoption by reference of Chapter 173–400 WAC as an appendix to Ecology's SIP revision, *National Ambient Air Quality Standards: Infrastructure State Implementation Plan for 2015 Ozone and 2010 Sulfur Dioxide,* to demonstrate that the state has adequate infrastructure (statutory, regulatory, and programmatic authority) to implement revised air quality standards.[1] The updated adoption by reference was submitted primarily to bring EFSEC's regulatory program current with the most recent update Ecology made to Chapter 173–400–025 WAC "Adoption of federal rules" which adopts by reference the federal rules as they existed on January 24, 2018. However, the specific Chapter 173–400 WAC provisions adopted by reference, and submitted to the EPA for approval, also include changes to Chapter 173–400 WAC approved by the EPA on October 6, 2016 (81 FR 69385) and other recent changes to Chapter 173–400 WAC contained in the proposed SIP revision submittal *Revised Public Notice Provisions and Other Changes to Chapters 173–400, 173–405, 173–410, and 173–415 WAC,* included in the docket for this action.

III. Proposed Action

The EPA proposes to approve and incorporate by reference into the Washington SIP the revised EFSEC regulations listed in Table 1 and the corresponding updates to EFSEC's adoption by reference in Table 2.

TABLE 1—ENERGY FACILITIES SITE EVALUATION COUNCIL (EFSEC) REGULATIONS FOR PROPOSED APPROVAL AND INCORPORATION BY REFERENCE

State citation	Title/subject	State effective date	Explanations
Chapter 463–78 WAC, General and Operating Permit Regulations for Air Pollution Sources			
78–005	Adoption by Reference	8/26/19	Subsection (1) only. See the table below for updated Chapter 173–400 WAC provisions adopted by reference and submitted to the EPA for approval.

TABLE 2—REVISED CHAPTER 173–400 WAC, REGULATIONS ADOPTED BY REFERENCE IN WAC 463–78–005[2]

State citation	Title/subject	State effective date	Explanations
Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources			
173–400–025	Adoption of Federal Rules	9/16/18	
173–400–030	Definitions	9/16/18	Except: 173–400–030(6); 173–400–030(32); 173–400–030(38); 173–400–030(45); 173–400–030(83); 173–400–030(89); 173–400–030(96); 173–400–030(97); 173–400–030(100); 173–400–030(103); 173–400–030(104).
173–400–040	General Standards for Maximum Emissions	9/16/18	Except: 173–400–040(2); 173–400–040(3); 173–400–040(5).
173–400–050	Emission Standards for Combustion and Incineration Units.	9/16/18	Except: 173–400–050(2); 173–400–050(4); 173–400–050(5); 173–400–050(6).
173–400–060	Emission Standards for General Process Units.	11/25/18	
173–400–105	Records, Monitoring, and Reporting	11/25/18	
173–400–111	Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources.	07/01/16	Except: 173–400–111(3)(h); The part of 173–400–111(8)(a)(v) that says, • "and 173–460–040,"; 173–400–111(9).
173–400–116	Increment Protection	07/01/16	
173–400–171	Public Notice and Opportunity for Public Comment.	9/16/18	Except: The part of 173–400–171(3)(b) that says, • "or any increase in emissions of a toxic air pollutant above the acceptable source impact level for that toxic air pollutant as regulated under chapter 173–460 WAC"; 173–400–171(3)(o); 173–400–171(12).

[1] The EPA intends to act on the remainder of Ecology's infrastructure SIP revision separately.

[2] Many of the provision of Chapter 173–400 WAC adopted by reference remain unchanged since the EPA's last approval of EFSEC's regulations and were not resubmitted as part of the September 30, 2019 SIP revision. Other revised Chapter 173–400 WAC provisions were not submitted for approval as part of this current SIP update.

TABLE 2—REVISED CHAPTER 173–400 WAC, REGULATIONS ADOPTED BY REFERENCE IN WAC 463–78–005 [2]—Continued

State citation	Title/subject	State effective date	Explanations
173–400–710	Definitions	07/01/16	
173–400–720	Prevention of Significant Deterioration (PSD).	07/01/16	Except: 173–400–720(4)(a)(i through iv) and 173–400–720(4)(b)(iii)(C).
173–400–730	Prevention of Significant Deterioration Application Processing Procedures.	07/01/16	
173–400–740	PSD Permitting Public Involvement Requirements.	9/16/18	
173–400–810	Major Stationary Source and Major Modification Definitions.	07/01/16	
173–400–830	Permitting Requirements	07/01/16	
173–400–840	Emission Offset Requirements	07/01/16	
173–400–850	Actual Emissions Plantwide Applicability Limitation (PAL).	07/01/16	

IV. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the regulations listed in section III of this proposal. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov.*

V. Statutory and Executive Orders Review

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land in Washington except as specifically noted below and is also not approved to apply in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Washington's SIP is approved to apply on non-trust land within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the *Puyallup Tribe of Indians Settlement Act of 1989,* 25 U.S.C. 1773, Congress explicitly provided state and local agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area. Consistent with EPA policy, the EPA provided a consultation opportunity to the Puyallup Tribe in a letter dated May 16, 2019.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: October 16, 2019.

Chris Hladick,

Regional Administrator, Region 10.

[FR Doc. 2019–23516 Filed 10–28–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R03–OAR–2019–0537; FRL–10001–55–Region 3]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Virginia; Emission Standards for Existing Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a Clean Air Act (CAA) section 111(d) plan submitted by the Virginia Department of Environmental Quality (VADEQ). This plan was submitted to fulfill the requirements of the CAA and in

response to EPA's promulgation of Emissions Guidelines and Compliance Times for municipal solid waste (MSW) landfills. The Virginia plan establishes emission limits for existing MSW landfills, and provides for the implementation and enforcement of those limits.

DATES: Written comments must be received on or before November 29, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2019–0537 at *https://www.regulations.gov,* or via email to *opila.marycate@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Cynthia Stahl, Permits Branch (3AD10), Air and Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2180. Ms. Stahl can also be reached via electronic mail at *stahl.cynthia@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On August 29, 2016, EPA finalized Standards of Performance for MSW landfills and Emission Guidelines and Compliance Times for MSW Landfills in 40 CFR part 60 subpart XXX and Cf, respectively. 81 FR 59332 and 81 FR 59313. These actions were taken under section 111 of the CAA.

Section 111(d) of the CAA requires EPA to establish a procedure for a state to submit a plan to EPA which establishes standards of performance for any air pollutant: (1) For which air quality criteria have not been issued or which is not included on a list published under CAA section 108 or emitted from a source category which is regulated under CAA section 112 but; (2) to which a standard of performance under CAA section 111 would apply if such existing source were a new source. EPA established these requirements for state plan submittal in 40 CFR part 60, subpart B. State submittals under CAA sections 111(d) must be consistent with the relevant emission guidelines, in this instance 40 CFR part 60, subpart Cf, and the requirements of 40 CFR part 60, subpart B and part 62, subpart A.

On August 29, 2019, the Virginia Department of Environmental Quality (VADEQ) submitted to EPA a formal section 111(d) plan for existing municipal solid waste landfills. The submitted section 111(d) plan was in response to the August 29, 2016 promulgation of Federal New Source Performance Standards (NSPS) and emission guidelines requirements for MSW landfills, 40 CFR part 60, subparts XXX and Cf, respectively (76 FR 15372).

II. Summary of the Plan and EPA Analysis

EPA has reviewed the Virginia section 111(d) plan submittal in the context of the requirements of 40 CFR part 60, subparts B and Cf, and part 62, subpart A. In this action, EPA is proposing to determine that the submitted section 111(d) plan meets the above-cited requirements. Included within the section 111(d) plan are regulations under the Virginia state rule 9VAC5 Chapter 40 Article 43.1, entitled ''Emission Standards for Municipal Solid Waste Landfills.'' In this action, EPA is proposing to incorporate by reference (IBR) Virginia state rule 9VAC5 Chapter 40 Article 43.1, which became effective in the Commonwealth of Virginia on February 22, 2017. A detailed explanation of the rationale behind this proposed approval is available in the Technical Support Document (TSD).

III. Proposed Action

EPA is proposing to approve the Virginia section 111(d) plan for MSW landfills submitted pursuant to 40 CFR part 60, subpart Cf. Therefore, EPA is proposing to amend 40 CFR part 62, subpart XX to reflect this action. This approval is based on the rationale previously discussed and in further detail in the TSD associated with this action. The scope of the proposed approval of the section 111(d) plan is limited to the provisions of 40 CFR parts 60 and 62 for existing MSW landfills, as referenced in the emission guidelines, subpart Cf.

The EPA Administrator continues to retain authority for approval of alternative methods to determine the nonmethane organic compound concentration or a site-specific methane generation rate constant (k), as stipulated in 40 CFR 60.30f(c), as well as in Part 1, ''Discretionary Authority,'' of Virginia's 111(d) plan submittal.

IV. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference of the state plan. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference VADEQ rules regarding MSW landfills discussed in section II of this preamble. EPA has made, and will continue to make, these materials generally available through the docket for this action, EPA–R03–OAR–2019–0537, at *https://www.regulations.gov* and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

In reviewing state plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because this action is not significant under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described

in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed approval of Virginia's state plan submittal for existing MSW landfills does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the state plan is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Landfills, Methane, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: October 18, 2019.

Cosmo Servidio,

Regional Administrator, Region III.

[FR Doc. 2019–23515 Filed 10–28–19; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 191022–0068]

RIN 0648–BJ31

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic Region; Regulatory Amendment 30

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in Regulatory Amendment 30 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP), as prepared and submitted by the South Atlantic Fishery Management Council (Council). For red grouper, this proposed rule would modify the spawning season closures for the commercial and recreational sectors in the exclusive economic zone (EEZ) off North Carolina and South Carolina and establish a commercial trip limit. Additionally, Regulatory Amendment 30 would revise the rebuilding schedule for red grouper. The purpose of this proposed rule and Regulatory Amendment 30 is to modify the rebuilding schedule and extend protections for red grouper.

DATES: Written comments on the proposed rule must be received by November 29, 2019.

ADDRESSES: You may submit comments on the proposed rule, identified by "NOAA–NMFS–2019–0117," by either of the following methods:

- *Electronic submission:* Submit all electronic comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov/docket?D=NOAA-NMFS-2019-0117,* click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Mary Vara, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in required fields if you wish to remain anonymous).

Electronic copies of Regulatory Amendment 30 may be obtained from *www.regulations.gov* or the Southeast Regional Office website at *https://www.fisheries.noaa.gov/action/regulatory-amendment-30-red-grouper-rebuilding-plan.* Regulatory Amendment 30 includes an environmental assessment, a regulatory impact review, and an initial regulatory flexibility analysis (IRFA).

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, or email: *mary.vara@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery in the South Atlantic region is managed under the Snapper-Grouper FMP and includes red grouper, among other snapper-grouper species. The Snapper-Grouper FMP was prepared by the Council and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

In 2010, a Southeast Data, Assessment and Review (SEDAR) benchmark assessment (SEDAR 19, 2010) was completed for South Atlantic red grouper. Based on the results of SEDAR 19, NMFS determined that red grouper was overfished and undergoing overfishing. Amendment 24 to the Snapper-Grouper FMP established a 10-year rebuilding plan that began in 2011, with an end date of 2020 (77 FR 34254; June 11, 2012). Management measures implemented through Amendment 24 modified red grouper commercial and recreational annual catch limits (ACLs), and sector-specific accountability measures (AMs). Amendment 24 also removed the combined gag, black grouper, and red grouper commercial quota as well as the commercial and recreational ACLs and AMs.

A stock assessment update (SEDAR 53) for red grouper was completed in February 2017 using data through 2015. SEDAR 53 indicated the stock was still overfished and undergoing overfishing, and that stock rebuilding would not be possible by 2020, which is the terminal year of the current rebuilding plan. Therefore, on September 27, 2017, NMFS sent a letter to the Council stating that the South Atlantic red grouper stock was overfished and undergoing overfishing and not making adequate progress towards rebuilding. The Magnuson-Stevens Act requires the implementation of management measures to end overfishing immediately and revise or implement a rebuilding plan within 2 years of notification by NMFS to the Council of this stock status. NMFS implemented actions in Abbreviated Framework Amendment 1 to the FMP on August 27, 2018 (83 FR 35435), to immediately end overfishing of red grouper by reducing the total, commercial, and recreational ACLs based on the acceptable biological catch recommendation from the Council's Scientific and Statistical Committee.

Continued harvest at the levels specified in Abbreviated Framework Amendment 1 is expected to allow for rebuilding the red grouper stock within 10 years, but because the stock is not projected to fully rebuild by 2020 (SEDAR 53), the Council must revise the current rebuilding plan so the stock rebuilds in the timeframe mandated by the Magnuson-Stevens Act. Regulatory Amendment 30 addresses the proposed revision to the rebuilding plan and is discussed below.

The proposed rule for Regulatory Amendment 30 would extend the red grouper spawning season prohibition for the commercial and recreational sectors in the EEZ off North Carolina and South Carolina in response to stakeholder concerns that red grouper are often found in spawning condition past the January through April shallow-water grouper spawning season closure, particularly in May. The proposed rule also establishes a commercial trip limit for red grouper to help rebuild the stock and discourage direct fishing for the species.

Management Measures Contained in This Proposed Rule

For red grouper, this proposed rule would modify the spawning season closure for the commercial and recreational sectors in the EEZ off North Carolina and South Carolina, and establish a commercial trip limit.

Commercial and Recreational Spawning Season Closure

Currently, the commercial and recreational spawning season closure for shallow-water groupers, which includes red grouper, is January through April each year throughout the South Atlantic EEZ. In the EEZ off North Carolina and South Carolina, red grouper spawning occurs during February through June and peaks in April. This proposed rule would extend the January through April spawning season closure for red grouper through May in the EEZ off North Carolina and South Carolina for both the commercial and recreational sectors.

This action was developed in response to stakeholder concerns that red grouper are often found in spawning condition past the January through April shallow-water grouper spawning season closure, particularly in May, in the EEZ off North Carolina and South Carolina. The Council did not propose a similar May closure for the EEZ off Georgia or Florida in Regulatory Amendment 30 based on stakeholder feedback that red grouper spawn earlier in the year in the southern part of the Council's jurisdiction. Additionally, the Council noted that there are minimal landings of red grouper in Georgia, which would preclude the need to extend the closure past April in the EEZ off that state. This proposed rule would also extend the prohibition on commercial sale and purchase of red grouper in the EEZ off South Carolina and North Carolina from January through May as part of the revised spawning season closure.

Commercial Trip Limit

There is currently no commercial trip limit for red grouper in the South Atlantic. This proposed rule would establish a commercial trip limit for red grouper harvested in the South Atlantic EEZ of 200 lb (91 kg), gutted weight. The Council determined that the proposed trip limit would help to rebuild the red grouper stock by discouraging directed commercial fishing for the species. However, the proposed trip limit would likely not substantially reduce the current level of commercial harvest of red grouper as the majority of trips historically have landed less than 200 lb (91 kg) of red grouper. The trip limit would minimize adverse socio-economic effects by allowing fishers to retain red grouper caught incidentally when fishing for other snapper-grouper species. The Council selected a commercial trip limit that in combination with extending the spawning season closure for red grouper off North Carolina and South Carolina would constrain harvest to help rebuild the stock. Further, the Council chose a trip limit that was large enough to allow fishers for whom red grouper are an important species (such as those in South Florida and the Florida Keys) to maintain some trip profitability.

Measures in Regulatory Amendment 30 Not Codified in This Proposed Rule

The Council selected a 10-year rebuilding plan for red grouper in Regulatory Amendment 30, which is the maximum allowed under the Magnuson-Stevens Act, and would begin in 2019 (Year 1) and end in 2028 (Year 10). The Council determined that a longer time period for red grouper to rebuild would better accommodate the uncertainty relative to recruitment and stock productivity. As described in Regulatory Amendment 30, the red grouper stock has been experiencing multiple years of low recruitment (as evidenced by the SEDAR 53 stock assessment), and the lack of stock rebuilding progress may largely be due to ecosystem-related factors.

Implementation of reduced total and sector ACLs beginning in 2018, which was specified in Abbreviated Framework Amendment 1, is expected to end overfishing of South Atlantic red grouper. Given that poor recruitment appears to be the primary factor currently affecting stock rebuilding, and the projections upon which the rebuilding schedules alternatives in Regulatory Amendment 30 are based assumed long-term average recruitment, the Council selected the alternative for the longest rebuilding schedule (10 years) to account for the possibility that future recruitment might be lower than assumed in the projections.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Snapper-Grouper FMP, the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

This rule has been determined to be not significant for purposes of Executive Order 12866. This rule is not an Executive Order 13771 regulatory action because this rule is not significant under E.O. 12866.

NMFS prepared an IRFA, as required by section 603 of the RFA, for this proposed rule. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, the objectives of, and legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A copy of the full analysis is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows.

The Magnuson-Stevens Act provides the statutory basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified. A description of this proposed rule and its purpose and need are contained in the **SUMMARY** section of the preamble.

The rule concerns commercial and recreational fishing for red grouper in Federal waters of the South Atlantic. It directly effects both anglers (recreational fishers) and commercial fishing businesses that harvest red grouper in the South Atlantic EEZ.

Anglers are not considered small entities as that term is defined in 5 U.S.C. 601(6), whether fishing from for-hire fishing, private, or leased vessels. Therefore, neither estimates of the number of anglers nor the impacts on them are required or provided in this analysis.

Any business that operates a commercial fishing vessel that harvests red grouper in the South Atlantic EEZ must have a valid Federal snapper-grouper permit attached to that vessel.

From 2013 through 2017, an annual average of 225 commercially permitted vessels reported landings of red grouper. That annual average declined to 210 from 2015 through 2017. Those two annual averages are used to estimate the range of vessels. NMFS expects all of the businesses with the 210 to 225 vessels operate primarily in the commercial fishing industry. For RFA purposes, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily involved in commercial fishing (NAICS 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of $11 million for all of its affiliated operations worldwide. The average annual total revenue for a vessel that lands red grouper is substantially less than that. Moreover, none of the permitted vessels that landed red grouper had annual revenue close to or greater than $11 million. Hence, all of the businesses that operate permitted vessels that land red grouper are small.

This rule would not impose additional reporting or record-keeping requirements on small businesses. The action in Regulatory Amendment 30 to change the rebuilding schedule would have an indirect impact on small businesses but that impact is dependent on subsequent actions. The action to revise the seasonal closure for the recreational sector would have a direct impact on anglers, but as explained previously, anglers are not small entities.

The action to revise the seasonal closure for the commercial sector would add the month of May to the current January through April prohibition on fishing for and possession of red grouper in Federal waters off North Carolina and South Carolina. That additional month would eliminate from 6,956 lb (3,155 kg), gutted weight, to 12,477 lb (6,660 kg), gutted weight, of red grouper commercially landed in May, and the average annual loss per Carolina vessel that lands red grouper in May would range from 141 lb (64 kg), gutted weight, to 210 lb (95 kg), gutted weight, and from $649 to $977 (2017 dollars). However, when differentiated by state, the action would reduce the average North Carolina vessel's annual revenue by $497 to $649 (2017 dollars) (1.3 percent to 1.8 percent) and reduce the average South Carolina vessel's annual revenue by $713 to $977 (2017 dollars) (0.6 percent to 0.7 percent).

Finally, the last action would establish a 200-lb (91 kg), gutted weight, commercial trip limit in Federal waters of the South Atlantic in effect when fishing is allowed. From 2013 through 2017, an annual average of nine vessels landed more than 200 lb (91 kg), gutted weight, of red grouper in North Carolina and South Carolina from June through December. Those nine vessels represent from 9.7 percent to 11.9 percent of the vessels that land red grouper annually in North Carolina and South Carolina. The proposed trip limit would reduce average landings by 107–117 lb (49–53 kg), gutted weight, per trip and average dockside revenue from $498 to $538 (2017 dollars). Those losses represent less than 1 percent of average annual revenues for North Carolina and South Carolina vessels.

An annual average of three vessels make seven trips that land more than 200 lb (91 kg), gutted weight, of red grouper in Georgia and Florida from May through December. Those three Florida/Georgia vessels represent from 2.1 percent to 2.2 percent of permitted vessels that land red grouper in Georgia and Florida annually. NMFS estimates that each of the three vessels would lose from $3,441 to $3,471 (2017 dollars) in dockside revenue annually. Those figures represent from 6.5 percent to 6.6 percent of the average Florida/Georgia vessel's dockside revenue from all landings; however, the three vessels have annual revenues substantially greater than the average for the 134 to 143 Florida/Georgia vessels that land red grouper annually.

NMFS concludes this rule may have a significant economic impact on a substantial number of small commercial fishing businesses that operate federally permitted fishing vessels that harvest red grouper from the South Atlantic EEZ.

Four alternatives to adding May to the current 4-month January through April prohibition on fishing for or possessing red grouper in Federal waters off North Carolina and South Carolina were considered, but were not selected. The first alternative, the *status quo,* would have no impact on small businesses. Two non-selected alternatives would change the timing of the 4-month prohibition: From either February through May or March through June. A prohibition from February through May would have a smaller adverse impact than the selected alternative; however, it would have a smaller beneficial impact on the stock because snapper-grouper fishing off North Carolina and South Carolina is at its lowest from January through March. A March through June prohibition would extend into the red grouper season that is in Federal waters off North Carolina and off South Carolina, and its adverse impact would be larger than the selected alternative. The fourth non-selected alternative would establish a 6-month prohibition that would have the largest adverse economic impact of all alternatives.

Four alternatives to a 200-lb (91-kg), gutted weight, trip limit were considered, but were not selected. In addition to the *status quo* of no commercial trip limit, three other alternatives would have established smaller trip limits. Those three alternatives would have a larger adverse economic impact than the selected alternative.

List of Subjects in 50 CFR Part 622

Commercial, Fisheries, Fishing, Red grouper, Seasonal prohibition, South Atlantic, Trip limits.

Dated: October 22, 2019.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 2. In § 622.183, revise paragraph (b)(1) to read as follows:

§ 622.183 Area and seasonal closures.

* * * * *

(b) * * *

(1) *Seasonal closure of the commercial and recreational sectors for gag and associated grouper species.* During January through April each year, no person may fish for, harvest, or possess in or from the South Atlantic EEZ any South Atlantic shallow-water grouper (SASWG): Gag, black grouper, red grouper, scamp, red hind, rock hind, yellowmouth grouper, yellowfin grouper, graysby, and coney. For a person on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, these prohibitions against fishing, harvesting, or possessing apply in the South Atlantic, *i.e.,* in state or Federal waters. Additionally, in the month of May, no person may fish for, harvest, or possess any South Atlantic red grouper in or from the South Atlantic EEZ off North Carolina or off South Carolina. For a person on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, these prohibitions against fishing, harvesting, or possessing red grouper in May apply in state waters off North Carolina and off South Carolina.

* * * * *

■ 3. In § 622.191, add paragraph (a)(14) to read as follows:

§ 622.191 Commercial trip limits.

(a) * * *

(14) *Red grouper.* Until the commercial ACL specified in § 622.193(d)(1)(iii) is reached—200 lb (91 kg), gutted weight; 236 lb (107 kg), round weight. See § 622.193(d)(1) for the limitations regarding red grouper after the commercial ACL is reached.

* * * * *

■ 4. In § 622.192, revise paragraph (h) to read as follows:

§ 622.192 Restrictions on sale/purchase.

* * * * *

(h) During January through April, no person may sell or purchase a gag, black grouper, red grouper, scamp, red hind, rock hind, yellowmouth grouper, yellowfin grouper, graysby, or coney harvested from or possessed in the South Atlantic EEZ or, if harvested or possessed by a vessel for which a valid Federal commercial permit for South Atlantic snapper-grouper has been issued, harvested from the South Atlantic, *i.e.,* in state or Federal waters. Additionally, in the month of May, no person may sell or purchase South Atlantic red grouper harvested from or possessed in the South Atlantic EEZ off North Carolina or off South Carolina, or, if harvested or possessed by a vessel for which a valid Federal commercial permit for South Atlantic snapper-grouper has been issued, harvested in or from the EEZ or state waters off North Carolina or off South Carolina. The prohibitions on sale and purchase during January through May do not apply to such species that were harvested, landed ashore, and sold prior to January 1 and were held in cold storage by a dealer or processor. These prohibitions also do not apply to a dealer's purchase or sale of such species harvested from an area other than the South Atlantic, provided such fish are accompanied by documentation of harvest outside the South Atlantic. The requirements for such documentation are specified in paragraph (i) of this section.

* * * * *

[FR Doc. 2019–23437 Filed 10–28–19; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 84, No. 209

Tuesday, October 29, 2019

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the United States Department of Agriculture's Rural Utilities Service (RUS), invites comments on this information collection for which the Agency intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by December 30, 2019.

FOR FURTHER INFORMATION CONTACT: Thomas P. Dickson, Rural Development Innovation Center—Regulatory Team 2, USDA, 1400 Independence Avenue SW, STOP 1522, South Building, Washington, DC 20250–1522. Telephone: (202) 690–4492. Email *thomas.dickson@usda.gov*.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that RUS is submitting to OMB for extension of an existing collection. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Thomas P. Dickson, Rural Development Innovation Center—Regulatory Team 2, USDA, 1400 Independence Avenue SW, STOP 1522, South Building, Washington, DC 20250–1522. Telephone: (202) 690–4492. Email: *thomas.dickson@usda.gov*.

Title: 7 CFR part 1783, Revolving Fund Program.

OMB Control Number: 0572–0138.

Type of Request: Extension of a currently approved information collection.

Abstract: The Rural Utilities Service (RUS) supports the sound development of rural communities and the growth of our economy without endangering the environment. One of the ways the Agency pursues this goal is to provide financial and technical assistance to help communities bring safe drinking water and sanitary, environmentally sound waste disposal facilities to rural Americans in greatest need. The Revolving Fund Program (RFP) helps qualified non-profits create a revolving loan fund that can provide financing for the extension and improvement of water and waste disposal systems in rural areas. Entities eligible for the revolving loan fund will be the same entities eligible to obtain a loan, loan guarantee, or grant from RUS Water and Waste Disposal and Wastewater loan and grant programs. As grant recipients, the non-profit organizations establish a revolving loan fund to provide loans to finance predevelopment costs of water or wastewater projects, or short-term small capital projects not part of the regular operation and maintenance of current water and wastewater systems. The collection of information consists of the materials to file a grant application with the agency, including forms, certifications and required documentation.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 5.69 hour per response.

Respondents: Non-profit institutions.

Estimated Number of Respondents: 4.

Estimated Total Annual Responses: 66.

Estimated Number of Responses per Respondent: 16.6.

Estimated Total Annual Burden on Respondents: 376 Hours.

Copies of this information collection can be obtained from MaryPat Daskal, Management Analyst, Rural Development Innovation Center—Regulatory Team 2, USDA, 1400 Independence Avenue SW, STOP 1522, South Building, Washington, DC 20250–1522. Telephone: (202) 720–7853. Email: *MaryPat.Daskal@usda.gov*.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Chad Rupe,

Administrator, Rural Utilities Service.

[FR Doc. 2019–23586 Filed 10–28–19; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–67–2019]

Foreign-Trade Zone (FTZ) 26—Atlanta, Georgia; Notification of Proposed Production Activity; Kubota North America Corporation (Agricultural and Specialty Vehicles), Jefferson and Gainesville, Georgia

Kubota North America Corporation (Kubota) submitted a notification of proposed production activity to the FTZ Board for its facilities in Jefferson and Gainesville, Georgia. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on October 18, 2019.

Kubota already has authority to produce agricultural and specialty vehicles within FTZ 26. The current request would add foreign status components to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status components described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Kubota from customs duty payments on the foreign-status components used in export production. On its domestic sales, for the foreign-status components noted below, Kubota would be able to choose the duty rates during customs entry procedures that apply to agricultural and specialty vehicles (duty-free). Kubota would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The materials/components sourced from abroad include: Bonnet bands; radio kits; hour meters; and, air conditioning units (duty rate ranges from duty-free to 6.5%). The request indicates that bonnet bands will be admitted to the zone in privileged foreign status (19 CFR 146.41), thereby precluding inverted tariff benefits on such items. The request also indicates that certain components are subject to special duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is December 9, 2019.

A copy of the notification will be available for public inspection in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Christopher Wedderburn at *Chris.Wedderburn@trade.gov* or (202) 482–1963.

Dated: October 24, 2019.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2019–23606 Filed 10–28–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–66–2019]

Foreign-Trade Zone (FTZ) 122—Corpus Christi, Texas; Notification of Proposed Production Activity; Cheniere Energy, Inc. (Liquified Natural Gas Processing), Portland, Texas

The Port of Corpus Christi Authority, grantee of FTZ 122, submitted a notification of proposed production activity to the FTZ Board on behalf of Cheniere Energy, Inc. (Cheniere), located in Portland, Texas. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on October 16, 2019.

The applicant has submitted a separate application for FTZ designation at the Cheniere facility under FTZ 122. The facility will be used for liquified natural gas processing. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status material and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Cheniere from customs duty payments on the foreign-status gaseous natural gas (duty-free) used in export production. On its domestic sales, for the foreign-status gaseous natural gas, Cheniere would be able to choose the duty rates during customs entry procedures that apply to liquified natural gas and stabilized gas condensate (duty rates are duty-free and 10.5 cents/barrel, respectively). Cheniere would be able to avoid duty on the foreign-status material which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The request indicates that gaseous natural gas is subject to special duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is December 9, 2019.

A copy of the notification will be available for public inspection in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Diane Finver at *Diane.Finver@trade.gov* or (202) 482–1367.

Dated: October 22, 2019.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2019–23605 Filed 10–28–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–112]

Certain Collated Steel Staples From the People's Republic of China: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable October 29, 2019.

FOR FURTHER INFORMATION CONTACT: William Horn at (202) 482–4868 or Sergio Balbontin at (202) 482–6478, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On July 3, 2019, the Department of Commerce (Commerce) initiated the less-than-fair-value (LTFV) investigation of imports of certain collated steel staples from the People's Republic of China.[1] The deadline for the preliminary determination is November 13, 2019.

Postponement of Preliminary Determinations

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in an LTFV investigation within 140 days after the date on which Commerce initiated the investigation. However, section 733(c)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 190 days after the date on which Commerce initiated the investigation if: (A) The petitioner makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.

[1] *See Certain Collated Steel Staples from the People's Republic of China, the Republic of Korea, and Taiwan: Initiation of Less-Than-Fair-Value Investigations,* 84 FR 31833 (July 3, 2019).

On October 2, 2019, the petitioner[2] submitted a timely request that Commerce postpone the preliminary determination in this LTFV investigation.[3] The petitioner stated that it requests postponement to provide adequate time for it and Commerce to review the respondents' questionnaire responses prior to the preliminary determination. The petitioner requests that Commerce fully extend the preliminary determination by 50 days.

For the reason stated above and because there are no compelling reasons to deny the request, Commerce, in accordance with section 733(c)(1)(A) of the Act, is postponing the deadline for the preliminary determination by 50 days (*i.e.,* 190 days after the date on which this investigation was initiated). As a result, Commerce will issue its preliminary determination no later than January 2, 2020. In accordance with section 735(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination of this investigation will continue to be 75 days after the date of the preliminary determination, unless postponed at a later date.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: October 23, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2019–23578 Filed 10–28–19; 8:45 am]

BILLING CODE 3510–DS–P

[2] The petitioner is Kyocera Senco Industrial Tools, Inc.

[3] *See* Petitioner's Letter, ''Certain Collated Steel Staples from the People's Republic of China: Request to Postpone Preliminary Antidumping Duty Determination,'' dated October 2, 2019.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–011]

Crystalline Silicon Photovoltaic Products From the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2018

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is rescinding the administrative review of the countervailing duty (CVD) order on crystalline silicon photovoltaic products (solar products) from the People's Republic of China (China) for the period of review January 1, 2018, through December 31, 2018 (POR).

DATES: Applicable October 29, 2019.

FOR FURTHER INFORMATION CONTACT: Gene H. Calvert, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–3586.

SUPPLEMENTARY INFORMATION:

Background

On February 8, 2019, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the CVD order on solar products from China for the POR.[1] On February 25, 2019, Shenzhen Portable Electronic Technology Co., Ltd. (Shenzhen Technology) a Chinese exporter of the subject merchandise covered by the underlying CVD order, timely requested a review for its own POR entries of subject merchandise.[2] On February 28, 2019, Suniva, Inc. (Suniva), a domestic producer of subject merchandise, timely requested a review of 12 companies, one of which was Shenzhen Technology.[3] Shenzhen Technology and Suniva each filed its request for review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b). No other interested party requested an administrative review of any company for this segment of the proceeding. Based on the requests filed by Shenzhen Technology and Suniva, and in accordance with section 751(a) of the Act and 19 CFR 351.221(c)(1)(i), on May 2, 2019, Commerce initiated an administrative review of the CVD order on solar products from China covering the POR.[4]

On May 2, 2019, Suniva timely withdrew its request for the administrative review of all the companies for which it requested an administrative review;[5] Shenzhen Technology timely withdrew its request for an administrative review regarding its own entries on June 13, 2019.[6]

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the party that requested the review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. As noted above, Shenzhen Technology and Suniva, the only interested parties that filed requests for an administrative review for this segment of the proceeding, each timely withdrew its respective request for all companies for which a review was requested. Accordingly, Commerce is rescinding the administrative review of the CVD order on solar products from China for the period January 1, 2018, through December 31, 2018, in its entirety.

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess CVD duties on all appropriate entries of solar products from China. CVD duties shall be assessed at rates equal to the cash deposit of estimated CVD duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after the date of publication of this notice in the **Federal Register**.

Notice to Importers

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of CVD duties prior to liquidation of relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of CVD duties occurred and the subsequent assessment of doubled CVD duties.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to all parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 84 FR 2816 (February 8, 2019).

[2] *See* Shenzhen Technology's Letter, ''Crystalline Silicon Photovoltaic Products from the People's Republic of China—Request for Administrative Review,'' dated February 25, 2019.

[3] *See* Suniva's Letter, ''Crystalline Silicon Photovoltaic Products from the People's Republic of China: Request for Administrative Review,'' dated February 28, 2019.

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 18777 (May 2, 2019).

[5] *See* Suniva's Letter, ''Crystalline Silicon Photovoltaic Products from the People's Republic of China: Withdraw of Request of Administrative Review,'' dated (May 2, 2019).

[6] *See* Shenzhen Technology's Letter, ''Crystalline Silicon Photovoltaic Products from the People's Republic of China—Withdrawal of Request for Administrative Review,'' dated June 13, 2019.

protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with section 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4.).

Dated: October 24, 2019.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2019–23577 Filed 10–28–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–840]

Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Administrative Review; 2017–2018

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that certain frozen warmwater shrimp (shrimp) from India is being, or is likely to be, sold in the United States at less than normal value during the period of review (POR) February 1, 2017 through January 31, 2018.

DATES: Applicable October 29, 2019.

FOR FURTHER INFORMATION CONTACT: Manuel Rey or Brittany Bauer, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5518 or (202) 482–3860, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce is conducting an administrative review of the antidumping duty order on shrimp from India. This review covers six producers and/or exporters of the subject merchandise. Commerce selected two mandatory respondents for individual examination: Calcutta Seafoods Pvt. Ltd./Bay Seafood Pvt. Ltd./Elque & Co. (collectively, the Elque Group); and Magnum Sea Foods Limited/Magnum Estates Limited (collectively, Magnum). The producers/exporters which were not selected for individual examination are listed in the ''Final Results of the Review'' section of this notice.

On April 23, 2019, Commerce published the *Preliminary Results.*[1] On May 22 and 23, 2019, we received case briefs from the Elque Group and Magnum, respectively. On May 28, 2019, we received a rebuttal brief from the petitioner.[2]

Scope of the Order

The merchandise subject to the order is certain frozen warmwater shrimp.[3] The product is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) item numbers: 0306.17.00.03, 0306.17.00.06, 0306.17.00.09, 0306.17.00.12, 0306.17.00.15, 0306.17.00.18, 0306.17.00.21, 0306.17.00.24, 0306.17.00.27, 0306.17.00.40, 1605.21.10.30, and 1605.29.10.10. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive.

Analysis of Comments Received

All issues raised in the case briefs by parties are listed in the appendix to this notice and addressed in the IDM. Parties can find a complete discussion of these issues and the corresponding recommendations in this public memorandum, which is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov;* the IDM is also available to all parties in the Central Records Unit, Room B8024, of the main Commerce building. In addition, a complete version of the IDM can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed IDM and the electronic version of the IDM are identical in content.

Final Results of the Review

We are assigning the following dumping margins to the firms listed below for the POR February 1, 2017 through January 31, 2018:

Exporter/producer	Weighted-average dumping margin (percent)
Calcutta Seafoods Pvt. Ltd./Bay Seafood Pvt. Ltd./Elque & Co	110.90
Magnum Sea Foods Limited/Magnum Estates Limited	1.87

Review-Specific Average Rate Applicable to the Following Companies:[4]

Exporter/producer	Weighted-average dumping margin (percent)
Blue-Fin Frozen Foods Pvt. Ltd	1.87
Crystal Sea Foods Private Limited	1.87
Forstar Frozen Foods Pvt. Ltd	1.87
Milsha Agro Exports Pvt. Ltd	1.87

Assessment Rates

Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries.

Pursuant to 19 CFR 351.212(b)(1), because Magnum reported the entered value for all its U.S. sales, we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the sales for which entered value was reported. To determine whether the duty assessment rates are *de minimis,* in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer-specific *ad valorem* ratios based on the entered value.

For the companies which were not selected for individual examination, we used, as the assessment rate, the cash deposit rate assigned to Magnum, in accordance with our practice.[5]

Commerce's ''automatic assessment'' practice will apply to entries of subject merchandise during the POR produced by Magnum for which it did not know that the merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate

[1] *See Certain Frozen Warmwater Shrimp from India: Preliminary Results of Antidumping Duty Administrative Review; 2017–2018,* 84 FR 16843 (April 23, 2019) (*Preliminary Results*).

[2] The petitioner is the Ad Hoc Shrimp Trade Action Committee.

[3] For a complete description of the Scope of the Order, *see* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2017–2018 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from India,'' dated concurrently with, and hereby adopted by, this notice (IDM).

[4] This rate is based on the rates for the respondents that were selected for individual review, excluding rates that are zero, *de minimis* or based entirely on facts available. *See* section 735(c)(5)(A) of the Tariff Act of 1930, as amended (the Act).

[5] *See, e.g., Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review; 2016–2017,* 83 FR 32835 (July 16, 2018).

company(ies) involved in the transaction.[6]

Commerce intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates shown above, except if the rate is less than 0.50 percent (*de minimis* within the meaning of 19 CFR 351.106(c)(1)), the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a previous review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all-other manufacturers or exporters will continue to be 10.17 percent, the all-others rate established in the LTFV investigation.[7] These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as the only reminder to importers of their responsibility, under 19 CFR 351.402(f)(2), to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

In accordance with 19 CFR 351.305(a)(3), this notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under the APO, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.213(h).

Dated: October 21, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the IDM

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of the Issues
  Comment 1: Differential Pricing
  Comment 2: Adverse Facts Available
V. Recommendation

[FR Doc. 2019–23534 Filed 10–28–19; 8:45 am]

BILLING CODE 3510–DS–P

[6] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[7] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from India,* 70 FR 5147, 5148 (February 1, 2005).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–871]

Finished Carbon Steel Flanges From India: Preliminary Results of Antidumping Duty Administrative Review; 2017–2018

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily finds that Norma (India) Limited (Norma) and R.N. Gupta & Co. Ltd. (Gupta), producers/exporters of finished carbon steel flanges (flanges) from India, sold subject merchandise at prices below normal value during the period of review (POR) February 8, 2017 through July 31, 2018. We invite interested parties to comment on these preliminary results.

DATES: Applicable October 29, 2019.

FOR FURTHER INFORMATION CONTACT: Heather Lui, Paul Walker, or Fred Baker, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1646, (202) 482–0413, or (202) 482–2924, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 7, 2018, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on flanges from India, for the period February 8, 2017 through July 31, 2018.[1] Subsequently, Commerce received timely requests for an administrative review from Weldbend Corporation and Boltex Manufacturing Co., L.P. (collectively, the petitioners),[2] Norma,[3] Gupta,[4] Jai Auto Pvt. Ltd. (Jai Auto),[5] and Bebitz Flanges Works Private Limited (Bebitz).[6] The petitioners requested an administrative review of 35 companies,[7] whereas Norma, Gupta, Jai Auto and Bebitz requested an administrative review of themselves.[8] On October 4, 2018, Commerce initiated an administrative review of the *Order* for the period February 8, 2017 through July 31, 2018, with respect to 37 companies.[9] On November 9, 2018, Commerce selected Gupta and Norma as the mandatory respondents for this

[1] *See Finished Carbon Steel Flanges from India and Italy: Antidumping Duty Orders,* 82 FR 40136 (August 24, 2017) (*Order*); *see also Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 83 FR 38682, 38683 (August 7, 2018).

[2] *See* Petitioners' Letter, ''Finished Carbon Steel Flanges from India: Request for Administrative Review,'' dated August 31, 2018 (Petitioners' Request for Review).

[3] *See* Norma's Letter, ''Finished Carbon Steel Flanges from India: Request for entry of appearance in the Anti-Dumping Duty Administrative Review for Norma (India) Limited, USK Export Private Limited, Umashanker Khandelwal and Co. and Bansidhar Chiranjilal,'' dated August 28, 2018 (Norma's Request for Review).

[4] *See* Gupta's Letter, ''Finished Carbon Steel Flanges from India: Request for Anti-Dumping Duty Administrative Review,'' dated August 30, 2018 (Gupta's Request for Review).

[5] *See* Jai Auto's Letter, ''Request for Anti-Dumping Duty Administrative Review of finished carbon steel flanges from India,'' dated August 31, 2018; *see also* Jai Auto's Letter, ''Finished Carbon Steel Flanges from India: Requests for Administrative Review,'' dated August 31, 2018 (Jay Auto's Request for Review).

[6] *See* Bebitz's Letter, ''Finished Carbon Steel Flanges from India: Requests for Administrative Review,'' dated August 31, 2018 (Bebitz's Request for Review).

[7] *See* Petitioners' Request for Review, at 2–3.

[8] *See* Norma's Request for Review; Gupta's Request for Review; Jai Auto's Request for Review; and Bebitz's Request for Review.

[9] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 83 FR 50077 (October 4, 2018) (*Initiation Notice*).

review.[10] For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[11]

Commerce exercised its discretion to toll all deadlines affected by the closure of the federal government from December 22, 2018, through the resumption of operations on January 29, 2019.[12] On June 7, 2019 and September 6, 2019, Commerce extended the deadline for the preliminary results of this administrative review, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.213(h)(2).[13] The current deadline is October 10, 2019.

Scope of the Order

The merchandise covered by the *Order* is finished carbon steel flanges from India. The product is currently classified under subheadings 7307.91.5010 and 7307.91.5050 of the Harmonized Tariff System of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of merchandise subject to the scope is dispositive.[14]

Companies Not Selected for Individual Examination

For companies not selected for individual examination in an administrative review, generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation. Under section 735(c)(5)(A) of the Act, the all-others rate is normally "an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}." In this segment of the proceeding, we calculated a margin for Norma and Gupta that was not zero, *de minimis,* or based entirely on facts available. Accordingly, Commerce preliminarily has assigned to the companies not individually examined a margin of 1.71 percent, which is the simple average of Gupta's and Norma's calculated weighted-average dumping margins.[15]

Methodology

Commerce is conducting this review in accordance with sections 751(a)(1)(B) and (2) of the Act. Export price is calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed at *http://enforcement.trade.gov/frn/index.html.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content. A list of the topics discussed in the Preliminary Decision Memorandum is attached as an Appendix to this notice.

Preliminary Results of the Review

As a result of this review, Commerce preliminarily determines that the following weighted-average dumping margins exist for the period February 8, 2017 through July 31, 2018:

Exporter/manufacturer	Weighted-average dumping margin (percent)
R. N. Gupta & Co., Ltd	1.20
Norma (India) Limited/USK Exports Private Limited/Uma Shanker Khandelwal & Co./Bansidhar Chiranjilal [16]	2.22
Adinath International	1.71
Allena Group	1.71
Alloyed Steel	1.71
Bebitz Flanges Works Private Limited	1.71
C.D. Industries	1.71
CHQ Forge Pvt. Ltd	1.71
CHW Forge	1.71
Citizen Metal Depot	1.71
Corum Flange	1.71
DN Forge Industries	1.71
Echjay Forgings Limited	1.71
Falcon Valves and Flanges Private Limited	1.71
Heubach International	1.71
Hindon Forge Pvt. Ltd	1.71
Jai Auto Private Limited	1.71
Kinnari Steel Corporation	1.71
M F Rings and Bearing Races Ltd	1.71
Mascot Metal Manufactures	1.71
OM Exports	1.71
Punjab Steel Works (PSW)	1.71
R. D. Forge	1.71
Raaj Sagar Steels	1.71
Ravi Ratan Metal Industries	1.71
Rolex Fittings India Pvt. Ltd	1.71
Rollwell Forge Pvt. Ltd	1.71
SHM (ShinHeung Machinery)	1.71
Siddhagiri Metal and Tubes	1.71
Sizer India	1.71
Steel Shape India	1.71
Sudhir Forgings Pvt. Ltd	1.71
Tirupati Forge	1.71
Umashanker Khandelwal Forging Limited	1.71

Disclosure and Public Comment

Commerce intends to disclose the calculations performed in connection with these preliminary results to interested parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

[10] *See* Memorandum, "Antidumping Duty Administrative Review of Finished Carbon Steel Flanges from India: Respondent Selection," dated November 9, 2018.

[11] *See* Memorandum, "Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Finished Carbon Steel Flanges from India; 2017–2018," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[12] *See* Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations for Enforcement and Compliance, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

[13] *See* Memorandum, "Finished Carbon Steel Flanges from India: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated June 7, 2019; *see also* Memorandum, "Finished Carbon Steel Flanges from India: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated September 6, 2019.

[14] A full description of the scope of the *Order* is contained in the Preliminary Decision Memorandum.

[15] *See* Memorandum, "Finished Carbon Steel Flanges from India: Calculation of Non-Examined Companies' Rate," dated concurrently with this notice.

[16] In the preliminary determination of the less-than-fair value investigation, Commerce determined that Norma (India) Limited; USK Exports Private Limited; Uma Shanker Khandelwal & Co.; and Bansidhar Chiranjilal were a single entity. *See Finished Carbon Steel Flanges from India: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 82 FR 9719 (February 8, 2017) and accompanying Preliminary Decision Memorandum at 4–5; unchanged in *Finished Carbon Steel Flanges from India: Final Determination of Sales at Less Than Fair Value,* 82 FR 29483 (June 29, 2017). In these preliminary results, Norma has presented evidence that the factual basis on which Commerce made its prior determination has not changed. *See* Norma's March 1, 2019 Supplemental Questionnaire Response (Norma March 1, 2019 SQR) at 12–20. Therefore, in this administrative review, Commerce continues to collapse these four entities, and treats them as a single entity.

Interested parties may submit case briefs to Commerce no later than 30 days after the date of publication of this notice.[17] Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[18] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, using Enforcement and Compliance's ACCESS system within 30 days of publication of this notice. [19] Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

All submissions to Commerce must be filed electronically using ACCESS, and must also be served on interested parties.[20] An electronically filed document must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5:00 p.m. Eastern Time on the date that the document is due.

Assessment Rates

Upon issuance of the final results, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[21]

If Norma and Gupta's calculated weighted-average dumping margin is above *de minimis* (*i.e.,* greater than or equal to 0.5 percent) in the final results of this review, we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales to that importer, and we will instruct CBP to assess antidumping duties on all appropriate entries covered by this review. If Norma and Gupta's weighted-average dumping margin continues to be zero or *de minimis,* or the importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.[22]

In accordance with Commerce's ''automatic assessment'' practice, for entries of subject merchandise during the POR produced by Norma and Gupta for which each company did not know that the merchandise was destined for the United States, we will instruct CBP we will instruct CBP to liquidate those entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[23]

We intend to issue instructions to CBP 15 days after the date of publication of the final results of this review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Norma and Gupta will be the rate established in the final results of this review, except if the rate is *de minimis* within the meaning of 19 CFR 351.106(c)(1) (*i.e.,* less than 0.50 percent), in which case the cash deposit rate will be zero; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently-completed segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 11.95 percent, the all-others rate established in the less-than-fair-value investigation.[24] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Interested Parties

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Unless the deadline is extended pursuant to section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.213(h)(2), Commerce intends to issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice.[25]

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: October 10, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Rates for Non-Examined Companies
V. Comparisons to Normal Value
VI. Recommendation

[FR Doc. 2019–23533 Filed 10–28–19; 8:45 am]

BILLING CODE 3510–DS–P

[17] *See* 19 CFR 351.309(c)(1)(ii).

[18] *See* 19 CFR 351.309(d).

[19] *See* 19 CFR 351.310(c).

[20] *See* 19 CFR 351.303 (for general filing requirements).

[21] *See* 19 CFR 351.212(b)(1).

[22] *See* 19 CFR 351.106(c)(2).

[23] For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[24] *See Order,* 82 FR at 40138.

[25] *See* section 751(a)(3)(A) of the Act; and 19 CFR 351.213(h).

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (''PRA''), this notice announces that the Information Collection Request (''ICR'') abstracted below has been forwarded to the Office of Management and Budget (''OMB'') for review and comment. The ICR describes the nature of the

information collection and its expected costs and burden.

DATES: Comments must be submitted on or before November 29, 2019.

ADDRESSES: Comments regarding the burden estimate or any other aspect of the information collection, including suggestions for reducing the burden, may be submitted directly to the Office of Information and Regulatory Affairs (''OIRA'') in OMB, within 30 days of this notice's publication, by either of the following methods. Please identify the comments by ''OMB Control No. 3038–0102.''

- *By email addressed to: OIRAsubmissions@omb.eop.gov;* or
- *By mail addressed to:* The Office of Information and Regulatory Affairs, Office of Management and Budget, Attention Desk Officer for the Commodity Futures Trading Commission, 725 17th Street NW, Washington, DC 20503.

A copy of all comments submitted to OIRA should be sent to the Commodity Futures Trading Commission (''Commission'') by any of the following methods. The copies should refer to ''OMB Control No. 3038–0102.''

- *By mail addressed to:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581;
- By Hand Delivery/Courier to the same address; or
- Through the Commission's website at *http://comments.cftc.gov.* Please follow the instructions for submitting comments through the website.

A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting *http://RegInfo.gov.*

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1] The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Melissa D'Arcy, Special Counsel, Division of Clearing and Risk, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581; (202) 418–5086; email: *mdarcy@cftc.gov,* and refer to ''OMB Control No. 3038–0102.''

SUPPLEMENTARY INFORMATION:

Title: ''Clearing Exemption for Certain Swaps Entered into by Cooperatives,'' (OMB Control No. 3038–0102). This is a request for an extension of a currently approved information collection.

Abstract: Section 2(h)(1)(A) of the Commodity Exchange Act requires certain entities to submit for clearing certain swaps if they are required to be cleared by the Commission. Commission regulation 50.51 permits certain cooperatives to elect not to clear certain swaps that otherwise would be required to be cleared, provided that they meet certain conditions. The rule further requires the reporting of certain information if the exemption for cooperatives is elected. This collection pertains to information the Commission needs to monitor use of the cooperative exemption and assess market risk in connection therewith. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

On August 22, 2019, the Commission published in the **Federal Register** notice of the proposed extension of this information collection and provided 60 days for public comment on the proposed extension, 84 FR 43796 (''60-Day Notice''). The Commission received no substantive comments in response to the 60-Day Notice. Accordingly, the Commission continues to believe that the burden estimates published in the 60-Day Notice are appropriate.

Burden Statement: The respondent burden for this collection is estimated to be as follows:

Respondents/Affected Entities: Parties electing the cooperative exemption under Commission regulation 50.51.

Estimated Number of Respondents: 25.

Estimated Average Burden Hours per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 25 hours.

Frequency of Collection: On occasion; annually.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: October 24, 2019.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2019–23569 Filed 10–28–19; 8:45 am]

BILLING CODE 6351–01–P

[1] 17 CFR 145.9.

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (''PRA''), this notice announces that the Information Collection Request (''ICR'') abstracted below has been forwarded to the Office of Management and Budget (''OMB'') for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before November 29, 2019.

ADDRESSES: Comments regarding the burden estimate or any other aspect of the information collection, including suggestions for reducing the burden, may be submitted directly to the Office of Information and Regulatory Affairs (''OIRA'') in OMB within 30 days of this notice's publication by either of the following methods. Please identify the comments by ''OMB Control No. 3038–0085.''

- *By email addressed to: OIRAsubmissions@omb.eop.gov;* or
- *By mail addressed to:* The Office of Information and Regulatory Affairs, Office of Management and Budget, Attention Desk Officer for the Commodity Futures Trading Commission, 725 17th Street NW, Washington, DC 20503.

A copy of all comments submitted to OIRA should be sent to the Commodity Futures Trading Commission (''Commission'') by any of the following methods. The copies should refer to ''OMB Control No. 3038–0085.''

- *By mail addressed to:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581;

• By Hand Delivery/Courier to the same address; or

• Through the Commission's website at *http://comments.cftc.gov.* Please follow the instructions for submitting comments through the website.

A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting *http://RegInfo.gov.*

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1] The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Melissa D'Arcy, Special Counsel, Division of Clearing and Risk, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581; (202) 418–5086; email: *mdarcy@cftc.gov,* and refer to ''OMB Control No. 3038–0085.''

SUPPLEMENTARY INFORMATION:

Title: ''Rule 50.50 End-User Notification of Non-Cleared Swap,'' (OMB Control No. 3038–0085). This is a request for an extension and revision of a currently approved information collection.

Abstract: The Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'') amended Section 2(h)(1) of the Commodity Exchange Act (''CEA'') to provide that it shall be unlawful for any person to engage in a swap unless that person submits such swap for clearing to a derivatives clearing organization if the swap is required to be cleared. However, Section 2(h)(7) of the CEA, as added by the Dodd-Frank Act, also provides that a swap otherwise subject to the clearing requirement is eligible for an elective exception from clearing if one party to the swap is not a financial entity, is using swaps to hedge or mitigate commercial risk, and notifies the Commission, in a manner set forth by the Commission, how it generally meets its financial obligations associated with entering into non-cleared swaps (''End-User Exception'').

The Commission adopted Commission regulation 39.6 to specify requirements for electing the End-User Exception, including the reporting of certain information to a registered swap data repository (''SDR'') or the Commission. Following the publication of Commission regulation 39.6, the Commission recodified it as Commission regulation 50.50 (17 CFR 50.50). The information reported and collected under Commission regulation 50.50 is necessary as part of the overall package of swap-related information that must generally be submitted by reporting counterparties to SDRs under the Dodd-Frank Act. The Commission uses this information to assess and monitor the market participants electing the End-User Exception to the swap clearing requirement in order to prevent evasion of the clearing requirement. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

On August 22, 2019, the Commission published in the **Federal Register** notice of the proposed extension of this information collection and provided 60 days for public comment on the proposed extension, 84 FR 43795 (''60-Day Notice''). The Commission received no comments in response to the 60-Day Notice. Accordingly, the Commission continues to believe that the burden estimates published in the 60-Day Notice are appropriate.

Burden Statement: The respondent burden for this collection is estimated to be as follows:

Respondents/Affected Entities: Eligible entities electing the End-User Exception under Commission regulation 50.50.

Estimated Number of Respondents: 1,600.

Estimated Average Burden Hours per Respondent: 0.58 hours.

Estimated Total Annual Burden Hours: 928 hours.[2]

Frequency of Collection: On occasion; annually.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: October 24, 2019.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2019–23568 Filed 10–28–19; 8:45 am]

BILLING CODE 6351–01–P

[1] 17 CFR 145.9.

[2] 1,600 × . 58 hour = 928 (the estimated total annual burden hours).

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11:00 a.m., Tuesday, November 5, 2019.

PLACE: Three Lafayette Centre, 1155 21st Street NW, Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Examinations and enforcement matters. In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.cftc.gov/.*

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, 202–418–5964.

Authority: 5 U.S.C. 552b.

Dated: October 25, 2019.

Christopher Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2019–23688 Filed 10–25–19; 4:15 pm]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Innovation Board; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Research and Engineering, Department of Defense (DoD).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Innovation Board (''the Board'') will take place.

DATES: Open to the public Thursday, October 31, 2019 from 09:30 a.m. to 12:00 p.m.

ADDRESSES: The meeting will be held at the Georgetown University, Rafik B. Hariri Building, Lohrfink Auditorium, 3700 O St. NW, Washington, DC 20057. The meeting will be live streamed for those unable to physically attend.

FOR FURTHER INFORMATION CONTACT: Colleen Laughlin, (571) 372–0933 (Voice), *colleen.r.laughlin.civ@mail.mil* (Email) or *OSD.Innovation@mail.mil*. Mailing address is Defense Innovation Board, ATTN: Designated Federal Officer, 3030 Defense Pentagon, Room 5E572, Washington, DC 20301–3030. Website: *http://innovation.defense.gov*. The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C., Appendix), the Government in the Sunshine Act (5 U.S.C. 552b), and 41 CFR 102–3.140 and 102–3.150. Due to circumstances beyond the control of the DoD and the Designated Federal Officer, the Defense Innovation Board was unable to provide public notification required by 41 CFR 102–3.150(a) concerning the meeting on October 31, 2019, of the Defense Innovation Board. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Purpose of the Meeting: The mission of the Board is to examine and provide the Secretary of Defense and the Deputy Secretary of Defense independent advice and recommendations on innovative means to address future challenges in terms of integrated change to organizational structure and processes, business and functional concepts, and technology applications. The Board focuses on (a) technology and capabilities, (b) practices and operations, and (c) people and culture.

Agenda: During this public meeting, the Workforce, Behavior, and Culture Subcommittee will present on workforce issues, to include a Workforce Now project and a Campaign for an AI-Ready Force. The Science and Technology Subcommittee will present on Fully-Networked Command, Control, and Communications, Zero Trust Architecture, the source code provision of the Software Acquisition and Practices report, AI Ethics Principles, and their work plan for the rest of the calendar year. The Board will also discuss the implementation status of its recommendations in the Department. Members of the public will have an opportunity to provide oral comments to the Board regarding its deliberations and potential recommendations. See below for additional information on how to provide public comments.

Meeting Accessibility: Pursuant to Federal statutes and regulations (the FACA, the Sunshine Act, and 41 CFR 102–3.140 through 102–3.165) and the availability of space, the meeting is open to the public from 9:30 a.m. to 12:00 p.m. Seating is on a first-come basis. Members of the public wishing to attend the meeting or wanting to receive a link to the live stream webcast should register on the Board website, *http://innovation.defense.gov/meetings,* no later than October 25, 2019. Members of the media should RSVP to the Office of the Assistant to the Secretary of Defense (Public Affairs), at *osd.pentagon.pa.list.dop-atl@mail.mil*. Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact the Designated Federal Officer, see **FOR FURTHER INFORMATION CONTACT** section for contact information, no later than October 25, 2019, so that appropriate arrangements can be made.

Written Statements: Pursuant to section 10(a)(3) of the FACA and 41 CFR 102–3.140, the public or interested organizations may submit written comments to the Board about its approved agenda pertaining to this meeting or at any time regarding the Board's mission. Individuals submitting a written statement must submit their statement to the DFO (see **FOR FURTHER INFORMATION CONTACT** section for contact information). Written comments that do not pertain to a scheduled meeting may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at the planned meeting, then such comments must be received in writing not later than October 25, 2019. The DFO will compile all written submissions and provide them to Board members for consideration.

Oral Presentations: Individuals wishing to make an oral statement to the Board at the public meeting may be permitted to speak for up to two minutes. Anyone wishing to speak to the Board should submit a request by email at *osd.innovation@mail.mil* no later than October 25, 2019 for planning. Requests for oral comments should include a copy or summary of planned remarks for archival purposes. Individuals may also be permitted to submit a comment request at the public meeting; however, depending on the number of individuals requesting to speak, the schedule may limit participation. Webcast attendees will be provided instructions with the live stream link if they wish to submit comments during the open meeting.

Dated: October 24, 2019.

Morgan E. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2019–23563 Filed 10–28–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2019–OS–0102]

Submission for OMB Review; Comment Request

AGENCY: Defense Security Cooperation Agency, DoD.

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by November 29, 2019.

ADDRESSES: Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer, Docket ID number, and title of the information collection.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: The GlobalNET Collection; GlobalNET User Registration Form; OMB Control Number 0704–0558.

Type of Request: Extension.

Number of Respondents: 6,000.

Responses per Respondent: 1.

Annual Responses: 6,000.

Average Burden per Response: 10 minutes.

Annual Burden Hours: 1,000.

Needs and Uses: The purpose of the GlobalNET system is to provide a collaborative social networking environment/capability where students, alumni, faculty, partners, and other community members and subject matter experts can find relevant and timely information about pertinent subject matter experts and conduct required training. GlobalNET also collects information on students in order to allow regional center personnel to manage students while enrolled at regional centers.

Affected Public: Individuals and households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: October 21, 2019.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2019–23273 Filed 10–28–19; 8:45 am]

BILLING CODE 5001–06–P

DELAWARE RIVER BASIN COMMISSION

Notice of Public Hearing and Business Meeting; November 13 and December 11, 2019

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, November 13, 2019. A business meeting will be held the following month on Wednesday, December 11, 2019. The hearing and business meeting are open to the public and will take place at the Washington Crossing Historic Park Visitor Center, 1112 River Road, Washington Crossing, Pennsylvania.

Public Hearing. The public hearing on November 13, 2019 will begin at 1:30 p.m. Hearing items will include draft dockets for withdrawals, discharges, and other projects that could have a substantial effect on the basin's water resources, as well as a resolution establishing the Advisory Committee on Climate Change and providing for its purpose, membership and initial charge.

The list of projects scheduled for hearing, including project descriptions, and the text of the proposed resolution will be posted on the Commission's website, *www.drbc.gov,* in a long form of this notice at least ten days before the hearing date.

Written comments on matters scheduled for hearing on November 13 will be accepted through 5:00 p.m. on November 18.

The public is advised to check the Commission's website periodically prior to the hearing date, as items scheduled for hearing may be postponed if additional time is needed to complete the Commission's review, and items may be added up to ten days prior to the hearing date. In reviewing docket descriptions, the public is also asked to be aware that the details of projects may change during the Commission's review, which is ongoing.

Public Meeting. The public business meeting on December 11, 2019 will begin at 10:30 a.m. and will include: Adoption of the Minutes of the Commission's September 11, 2019 Business Meeting, announcements of upcoming meetings and events, a report on hydrologic conditions, reports by the Executive Director and the Commission's General Counsel, and consideration of any items for which a hearing has been completed or is not required. The latter may include but are not limited to Resolutions for the Minutes authorizing the Executive Director or his designee to: (a) Issue a task order to the Academy of Natural Sciences of Drexel University (''ANSDU'') to provide analytical services for characterization of algal composition in the Delaware Estuary; (b) issue a task order to the ANSDU to provide technical services for the modernization of Decision Support System (''DSS'') Tools for the Upper Delaware; and (c) execute an agreement for the preparation of an actuarial evaluation of the Commission's Other Post-Employment Benefit (''OPEB'') obligations, in accordance with Government Accounting Standards Board Statement No. 75.

After all scheduled business has been completed and as time allows, the Business Meeting will be followed by up to one hour of Open Public Comment, an opportunity to address the Commission on any topic concerning management of the basin's water resources outside the context of a duly noticed, on-the-record public hearing.

There will be no opportunity for additional public comment for the record at the December 11 Business Meeting on items for which a hearing was completed on November 13 or a previous date. Commission consideration on December 11 of items for which the public hearing is closed may result in approval of the item (by docket or resolution) as proposed, approval with changes, denial, or deferral. When the Commissioners defer an action, they may announce an additional period for written comment on the item, with or without an additional hearing date, or they may take additional time to consider the input they have already received without requesting further public input. Any deferred items will be considered for action at a public meeting of the Commission on a future date.

Advance Sign-Up for Oral Comment. Individuals who wish to comment on the record during the public hearing on November 13 or to address the Commissioners informally during the Open Public Comment portion of the meeting on December 11 as time allows, are asked to sign-up in advance through EventBrite. Links to EventBrite for the Public Hearing and the Business Meeting are available at *www.drbc.gov.* For assistance, please contact Ms. Paula Schmitt of the Commission staff, at *paula.schmitt@drbc.gov.*

Addresses for Written Comment. Written comment on items scheduled for hearing may be made through the Commission's web-based comment system, a link to which is provided at *www.drbc.gov.* Use of the web-based system ensures that all submissions are captured in a single location and their receipt is acknowledged. Exceptions to the use of this system are available based on need, by writing to the attention of the Commission Secretary, DRBC, P.O. Box 7360, 25 Cosey Road, West Trenton, NJ 08628–0360. For assistance, please contact Paula Schmitt at *paula.schmitt@drbc.gov.*

Accommodations for Special Needs. Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the meeting or hearing should contact the Commission Secretary directly at 609–883–9500 ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how we can accommodate your needs.

Additional Information, Contacts. Additional public records relating to hearing items may be examined at the Commission's offices by appointment by contacting Denise McHugh, 609–883–9500, ext. 240. For other questions concerning hearing items, please contact David Kovach, Project Review Section Manager at 609–883–9500, ext. 264.

Dated: October 22, 2019.

Pamela M. Bush,

Commission Secretary and Assistant General Counsel.

[FR Doc. 2019–23592 Filed 10–28–19; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2019–ICCD–0107]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Performance Report for Assistance for Arts Education Development and Dissemination, Professional Development for Arts Educators and Arts in Education National Programs

AGENCY: Department of Education (ED), Office of Innovation and Improvement (OII).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before November 29, 2019.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2019–ICCD–0107. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Bonnie Carter, 202–401–3576.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Performance Report for Assistance for Arts Education Development and Dissemination, Professional Development for Arts Educators and Arts in Education National Programs.

OMB Control Number: 1855–0031.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 88.

Total Estimated Number of Annual Burden Hours: 3,520.

Abstract: This data collection package consists of three annual performance templates forms that include fillable tables and open-ended questions to allow grantees to submit data as required by the Department of Education in an efficient and organized manner under the Assistance for Arts Education Development and Dissemination, Professional Development for Arts Educators and Arts in Education National Programs. Data for Government Performance and Results Act measures, budget information and data on project-specific performance measures are collected on the templates. This annual performance report templates collection package is an extension of the current information collection package (OMB #1855–0031).

Dated: October 24, 2019.

Kate Mullan,

PRA Coordinator, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.

[FR Doc. 2019–23574 Filed 10–28–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2019–ICCD–0106]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; 2019–20 National Postsecondary Student Aid Study (NPSAS:20)

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before November 29, 2019.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2019–ICCD–0106. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9089, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kashka

Kubzdela, 202–245–7377 or email *NCES.Information.Collections@ed.gov.*

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: 2019–20 National Postsecondary Student Aid Study (NPSAS:20).

OMB Control Number: 1850–0666.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 111,614.

Total Estimated Number of Annual Burden Hours: 131,801.

Abstract: The 2019–20 National Postsecondary Student Aid Study (NPSAS:20) is a nationally representative cross-sectional study of how students and their families finance education beyond high school in a given academic year. NPSAS is conducted by the National Center for Education Statistics (NCES) and was first implemented by NCES during the 1986–87 academic year and has been fielded every 3 to 4 years since. This request is to conduct the 11th cycle in the NPSAS series during the 2019–20 academic year. NPSAS:20 will be both nationally- and state-representative and will serve as the base year data collection for the 2020 cohort of the Beginning Postsecondary Students Longitudinal Study (BPS:20), a study of first-time beginning postsecondary students that will be conducted three years (BPS:20/22) and six years (BPS:20/25) after beginning their postsecondary education. NPSAS:20 will consist of a nationally-representative sample of undergraduate and graduate students, and a nationally-representative sample of first-time beginning students (FTBs). Subsets of questions in the NPSAS:20 student interview will focus on describing aspects of the experience of beginning students in their first year of postsecondary education, including student debt and education experiences. This request is to conduct all activities related to NPSAS:20, and thus this submission covers materials and procedures related to: The NPSAS:20 student data collection, consisting of abstraction of student data from institutions and a student survey; panel maintenance activities for a NPSAS:2020 follow-up field test (for BPS:20/22); and carries over respondent burden, procedures, and materials related to the NPSAS:20 institution sampling, enrollment list collection, and matching to administrative data files as approved by OMB in July and anticipated change request in September 2019 (OMB #1859–0666 v.23–24). The NPSAS:20 enrollment list collection from institutions will take place from October 2019 through July 2020, the student records collection will take place from February through November 2020, and the student survey data collection will take place from January through November 2020.

Dated: October 24, 2019.

Stephanie Valentine,

PRA Coordinator, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.

[FR Doc. 2019–23582 Filed 10–28–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket ID ED–2017–FSA–0105]

Privacy Act of 1974; System of Records

AGENCY: Federal Student Aid, Department of Education.

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the U.S. Department of Education (Department) modifies the system of records entitled ''Federal Student Aid Application File'' (18–11–01).

The Federal Student Aid Application File system of records contains information provided by applicants for title IV of the Higher Education Act of 1965, as amended, (HEA) program assistance, which is collected from the Free Application for Federal Student Aid (FAFSA). Among other purposes described in this notice, the information collected is maintained in order to: Determine an applicant's eligibility for the Federal student financial assistance programs authorized by title IV of the HEA; make a loan, grant, or scholarship; and verify the identity of the applicant.

DATES: Submit your comments on or before November 29, 2019.

This modified system of records will become applicable upon publication in the **Federal Register** on October 29, 2019. Modified routine uses (1)(a), (1)(e), (1)(m), (3), (5), (8), (11), (12), (14) and new routine uses (15) and (16) listed under ''ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES'' will become applicable on November 29, 2019, unless the modified system of records notice needs to be changed as a result of public comment. The Department will publish any significant changes resulting from public comment.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov,* including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the ''help'' tab.
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about this modified system of records, address them to: Director, Systems Integration Division, Systems Operations and Aid Delivery Management Services, Federal Student Aid, U.S. Department of Education, 830 First Street NE, Room 41F1, Union Center Plaza (UCP), Washington, DC 20202–5144.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Director Lisa DiCarlo, Application Processing Division, Customer Experience Group, Federal Student Aid, U.S. Department of Education, 500 West Madison Street, Room 1432/14th Floor, Chicago, IL 60616. Telephone: (312) 730–1600.

If you use a telecommunications device for the deaf (TDD) or text telephone (TTY), you may call the Federal Relay Service (FRS), at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Department is updating the section of the notice entitled ''SECURITY CLASSIFICATION'' by changing the classification from ''none'' to ''unclassified.'' The Department is updating the section of the notice entitled ''SYSTEM LOCATION'' by revising two locations and adding five locations. The Department is updating the address of the ''SYSTEM MANAGER(S)'' to reflect a change in location. The Department is updating the section of the notice entitled ''AUTHORITY FOR MAINTENANCE OF THE SYSTEM'', to include additional authority to collect Social Security numbers (SSNs) for use in this system.

The Department is updating the section of the notice entitled ''CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM'' to remove the reference to secondary school students about whom secondary schools, local educational agencies, and other local and State agencies had previously submitted information to the Department in order for the Department to provide these entities with the students' FAFSA completion filing status.

The Department is updating the section of the notice entitled ''CATEGORIES OF RECORDS IN THE SYSTEM'' to delete the Institutional Student Information Record (ISIR) Analysis (IA) Tools functionality and a description of the records post-secondary institutions were able to create with the IA Tools, because the IA Tools have been discontinued. The Department is also adding the Person Authentication System (PAS) to the Department systems that provide applicant information to this system of records.

The Department is updating the section of the notice entitled ''RECORD SOURCE CATEGORIES'' to reflect changes due to the new mobile application. ''MyStudentAid'' is a mobile application used by students and their parents to submit their post-secondary applications for title IV student financial aid grants and loans as part of the FAFSA process. This is an alternative to completing the FAFSA application on paper or on the *FAFSA.gov* website. This application populates the Central Processing System (CPS) with the applicant's information. The Department is also modifying this section to clarify that information in the system may also be obtained from other persons or entities from which data is obtained under routine uses set forth in the notice.

The Department is substantially revising the section of the notice entitled ''ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES'' to reflect changes in program operations. The Department is modifying routine use (1) entitled ''Program Disclosures'' to remove the purposes of verifying an applicant's spousal information and informing an applicant's spouse of information about the spouse from routine use disclosures (a) and (m). In routine use (1)(a) the change clarifies that the Department will not use this routine use to disclose information from this system of records for the purpose of verifying the identity of the applicant's spouse. In routine use (1)(m) the change clarifies that the Department will not use this routine use to disclose information from this system of records to an applicant's spouse for the purpose of informing the spouse of information about the spouse in an application for title IV, HEA funds.

The Department is modifying routine use (1)(e) to remove language indicating that the Department may disclose records to financial institutions participating in the Federal Family Education Loan (FFEL) Programs in order to facilitate assessments of title IV, HEA program compliance since new loans were not originated under FFEL after 2010.

The Department is deleting routine use (1)(p) because the Department is no longer disclosing the FAFSA filing status of a student to a Local Educational Agency (LEA), secondary school where the student is or was enrolled, or other State, local, or private entity designated by the Secretary, but rather is permitting State agencies to re-disclose the FAFSA filing status of a student under specified conditions.

The Department is deleting the former routine use (2) entitled ''Disclosure for Use by Other Law Enforcement Agencies'' because the component of FSA that maintains the system is not a law enforcement agency and, therefore, is renumbering the former routine use (3) entitled ''Enforcement Disclosure'' to the current routine use (2). The subsequent 12 routine use disclosures are, therefore, renumbered by a reduction factor of one in the current notice.

The Department is modifying routine use (3) entitled ''Litigation and Alternative Dispute Resolution (ADR) Disclosure'' to insert the word ''person'' in place of the word ''individual'' in subsection (c) in order to reduce public confusion that may have resulted from the Department's prior use of the word ''individual,'' given that the word ''individual'' is defined in the Privacy Act and the Department did not intend to incorporate the Privacy Act definition of this word.

The Department is modifying routine use (5) entitled ''Contracting Disclosure'' and routine use (11) entitled ''Research Disclosure'' to remove language that referenced safeguards required under the Privacy Act because this language was not clear and also limited the Department to making disclosures to contractors acting within the scope of subsection (m) of the Privacy Act. The Department's revised language clarifies that contractors and researchers to whom disclosures are made under these routine uses are required to agree to safeguards to protect the security and confidentiality of the records in the system and permits the Department to disclose records to contractors beyond the scope of subsection (m) of the Privacy Act. The Department also is modifying routine use (5) to clarify that an agreement with the contractor will be reached as part of the contract, rather than before entering into the contract.

The Department is modifying routine use (8) entitled ''Employee Grievance, Complaint, or Conduct Disclosure'' to include records of present or former employees and to allow disclosure to any party to a grievance, complaint, or action and to the party's counsel. These changes standardize the language in this routine use with the language used in the Department's other systems of records notices.

The Department is updating routine use (12) formerly entitled ''Disclosure to the OMB for Federal Credit Reform Act (CRA) Support'' to add the Congressional Budget Office to the entities which may be provided with access to the Department's records relating to the development of more accurate data on historical performance of direct loan and loan guarantee programs and to improve estimates of costs of these programs.

Pursuant to the requirements in Office of Management and Budget (OMB) M–17–12, the Department is modifying routine use (14) entitled ''Disclosure in the Course of Responding to a Breach of Data'' and adding routine use (15) entitled ''Disclosure in Assisting another Agency in Responding to a Breach of Data.''

The Department is adding routine use (16) entitled ''Disclosure of Information to State and Federal Agencies'' to permit disclosure of records for the purposes of identifying, preventing, or recouping improper payments, as authorized pursuant to the Improper Payments Elimination and Recovery Improvement Act of 2012, Public Law 112–248, as amended, and to permit the Department to comply with the requirements of 31 U.S.C. 3720B.

The Department is updating the section of the notice entitled ''POLICIES AND PRACTICES FOR STORAGE OF RECORDS'' to more fully address the medium in which the records are stored in this system and to make other updates, including a change to the record storage location for paper applications.

The Department is updating the section of the notice entitled ''POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS'' to explain that the applicable Department records schedule is being amended, pending approval by the National Archives and Records Administration (NARA).

The Department is revising the section of the notice entitled ''ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS'' to update the computer system safeguards used to protect the system from tampering.

The Department is modifying the sections of the notice entitled ''RECORD ACCESS PROCEDURES'', ''CONTESTING RECORD PROCEDURES'', and ''NOTIFICATION PROCEDURES'' to reflect the current process of requesting access, contesting, and notification of records.

Finally the Department is adding a new section entitled ''HISTORY'' to the notice to follow the required template in OMB Circular No. A–108.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: October 24, 2019.

Mark A. Brown,

Chief Operating Officer, Federal Student Aid.

For the reasons discussed in the preamble, the Chief Operating Officer, Federal Student Aid of the U.S. Department of Education (Department) publishes a notice of a modified system of records to read as follows:

SYSTEM NAME AND NUMBER:

Federal Student Aid Application File (18–11–01).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Conduent 1084 South Laurel Road, Building 3, London, KY 40744. This site is the location where paper Free Application for Federal Student Aid (FAFSA) applications and related paper documents are stored until sent to the Federal Records Center for long-term storage and disposal.

General Dynamics Information Technology (GDIT), 2450 Oakdale Boulevard, Coralville, IA 52241. This location hosts CPS/Student Aid internet Gateway (SAIG) help desk agents and Participation Management staff who provide technical assistance to postsecondary title IV institutions.

GDIT Image and Data Capture (IDC) Center, 1084 South Laurel Road, London, KY 40744. The IDC scans paper financial aid documents and correspondence, key-enters the data, and electronically transmits the data and related images to the CPS for processing.

GDIT Data Center, 9651 Hornbaker Road, Manassas, VA 20109. This site hosts some of the hardware and software components of the CPS system.

GDIT Customer Interaction Center (CPS/SAIG), 3833 Greenway Drive, Lawrence, KS 55046. CPS/SAIG is the help desk that provides customer service to postsecondary title IV institutions using the CPS and SAIG websites.

NGDC, 250 Burlington Drive, Clarksville, VA 23927. NGDC hosts the infrastructure that supports CPS applications.

Freedom Graphic Systems (FGS), 780 McClure Road, Aurora, IL 60502. This facility handles print and mail operations.

SYSTEM MANAGER(S):

Director, Application Processing Division, Customer Experience Group, Federal Student Aid, U.S. Department of Education, 500 West Madison Street, Room 1432/14th Floor, Chicago, IL 60616.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title IV of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1070 *et seq.*). The collection of Social Security numbers (SSNs) of users of this system is also authorized by 31 U.S.C. 7701 and Executive Order 9397, as amended by Executive Order 13478 (November 18, 2008).

PURPOSE(S) OF THE SYSTEM:

The information contained in this system is maintained for the purposes of: (1) Assisting with the determination, correction, processing, tracking, and reporting of program eligibility and benefits for the Federal student financial assistance programs authorized by title IV of the HEA; (2) making a loan, grant, or scholarship; (3) verifying the identity of the applicant, and the parent(s) of a dependent applicant, and the accuracy of the information in this system; (4) reporting the results of the need analysis, Federal Pell Grant eligibility determination, and the results of duly authorized matching programs between the Department and other Federal agencies to applicants, postsecondary institutions, third-party servicers, State agencies designated by the applicant, and other Departmental and investigative components for use in operating and evaluating the title IV, HEA programs and in the imposition of criminal, civil, or administrative sanctions; (5) enforcing the terms and conditions of a title IV, HEA loan or grant; (6) servicing and collecting a delinquent title IV, HEA loan or grant; (7) initiating enforcement action against an individual involved in program fraud, abuse, or noncompliance; (8) locating a debtor; (9) maintaining a record of the data supplied by those requesting title IV, HEA program assistance; (10) ensuring compliance with and enforcing title IV, HEA programmatic requirements; (11) acting as a repository and source for information necessary to fulfill the requirements of title IV of the HEA; (12) evaluating title IV, HEA program effectiveness; (13) enabling institutions of higher education (IHEs) designated by the applicant to review and analyze the financial aid data of their applicant population; (14) assisting students with the completion of the application for the Federal student financial assistance programs authorized by title IV of the HEA; (15) determining the eligibility of applicants for the award of State postsecondary education assistance and for the award of aid by eligible IHE or other entities designated by the Secretary and administering those awards; and (16) promoting and encouraging application for title IV, HEA program assistance, State assistance, and aid awarded by the IHE or other entities designated by the Secretary.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The Federal Student Aid Application File contains records on students who apply for Federal student financial assistance programs authorized by title IV of the HEA. This system also contains information on the parent(s) of a dependent applicant and the spouse of a married applicant.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information provided by applicants for title IV, HEA program assistance, on the FAFSA, including, but not limited to, the applicant's name, address, SSN, date of birth, telephone number, driver's license number, email address, citizenship status, marital status, legal residence, status as a veteran, educational status, and financial data. This system also contains information provided about the parent(s) of a dependent applicant, including, but not limited to, the parent's highest level of schooling completed, marital status, SSN, last name and first initial, date of birth, email address, number in household supported by the parent, and income and asset information. For an applicant who is married, this system of records also contains spousal income and asset information.

The system determines an applicant's expected family contribution (EFC). The EFC is used by IHEs to determine the student's eligibility for Federal and institutional program assistance, and by States to determine the student's eligibility for State grants. The Department notifies the applicant of the results of his or her application via the Student Aid Report (SAR). The Department provides the IHEs identified on the applicant's FAFSA with the Institutional Student Information Record (ISIR), which indicates whether there are discrepant or insufficient data, school adjustments, or CPS assumptions that affect processing of the FAFSA. Other information in the system includes, but is not limited to: Secondary EFC (an EFC calculated from the full EFC formula and is printed in the financial aid administrator's (FAA) Information section of the ISIR), dependency status, Federal Pell Grant Eligibility, duplicate SSN (an indicator that is set to alert ISIR recipients that two applications were processed with the same SSN), selection for verification, Simplified Needs Test (SNT) or Automatic Zero EFC (used for extremely low family income), CPS processing comments, reject codes (explanation for applicant's FAFSA not computing EFC), assumptions made with regard to the student's data due to incomplete or inconsistent FAFSA data, FAA adjustments including dependency status overrides, and CPS record processing information (application receipt date, transaction number, transaction process date, SAR Serial Number, Compute Number, Data Release Number (DRN; a four-digit number assigned to each application), National Student Loan Database System (NSLDS) match results, a bar code, and transaction source).

Information from other Department systems, such as NSLDS, the Common Origination and Disbursement (COD) System, and the SAIG Participation Management System, is added to this system of records. The Appendix contains a more detailed description of the data added to this system of records as a result of the exchanges of data with other Department systems and the Department's matching programs with other Federal agencies.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from applicants and the parents of dependent applicants for title IV, HEA program assistance, on the paper FAFSA, FAFSA on the Web, FAFSA by phone, mobile application, and the authorized employees or representatives of authorized entities as follows: Postsecondary educational institutions, institutional third-party servicers, Federal Family Education Loan (FFEL) Program lenders, FFEL Program guaranty agencies, Federal loan servicers, State grant agencies, other federal agencies, research agencies, and from other persons or entities from which data is obtained under the routine uses set forth below.

Postsecondary institutions designated by the applicant or third-party servicers designated by the postsecondary institution may correct the records in this system as a result of documentation provided by the applicant or by a dependent applicant's parents, such as Federal income return(s) (Internal Revenue Service (IRS) Form 1040, IRS Form 1040A, or IRS Form 1040EZ), Social Security card(s), and Department of Homeland Security I–551 Resident Alien cards.

This system contains information added during CPS processing and information received from other Department systems, including the NSLDS, the COD System, and the SAIG Participation Management System. For more information about the information received from these other Department systems, see the Appendix.

The results of matching programs with the following Federal agencies are also added to the student's record during CPS processing: The Social Security Administration (SSA), the Department of Veterans Affairs (VA), the Selective Service System (SSS), the Department of Homeland Security (DHS), the Department of Justice (DOJ), and the Department of Defense (DoD). For more information about the information received from these matching programs, see the Appendix.

Information in this system also may be obtained from other persons or entities from which data is obtained under routine uses set forth below.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND PURPOSES OF SUCH USES:

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or pursuant to a matching agreement that meets the requirements of the Privacy Act of 1974, as amended (Privacy Act). Section 483(a)(3)(E) of the HEA allows information collected via the electronic version of the FAFSA to be used only for the application, award, and administration of aid awarded under title IV of the HEA, by States, by eligible institutions, or by such entities as the Secretary may designate.

(1) *Program Disclosures.*

(a) To verify the identity of the applicant and the parent(s) of a dependent applicant; to determine the accuracy of the information contained in the record; to support compliance with title IV, HEA statutory and regulatory requirements; and to assist with the determination, correction, processing, tracking, and reporting of program eligibility and benefits, the Department may disclose records to guaranty agencies and financial institutions participating in the FFEL Programs, IHEs, third party servicers, and Federal and State agencies;

(b) To provide an applicant's financial aid history, including information about the applicant's title IV, HEA loan defaults and title IV, HEA grant program overpayments, the Department may disclose records to IHEs, guaranty and State agencies, financial institutions participating in the FFEL Programs, and third party servicers;

(c) To facilitate receiving and correcting application data, processing Federal Pell Grants and Direct Loans, and reporting Federal Perkins Loan Program expenditures to the Department's processing and reporting systems, the Department may disclose records to IHEs, State agencies, and third party servicers;

(d) To assist loan holders with the collection and servicing of title IV, HEA loans, to support pre-claims/supplemental pre-claims assistance, to assist in locating borrowers, and to assist in locating students who owe grant overpayments, the Department may disclose records to guaranty agencies and financial institutions participating in the FFEL Programs, IHEs, third-party servicers, and Federal, State, and local agencies;

(e) To facilitate assessments of title IV, HEA program compliance, the Department may disclose records to guaranty agencies and IHEs, third-party servicers, and Federal, State, and local agencies;

(f) To assist in locating holders of loan(s), the Department may disclose records to student borrowers, guaranty agencies and financial institutions participating in the FFEL Programs, IHEs, third-party servicers, and Federal, State, and local agencies;

(g) To assist in assessing the administration of title IV, HEA program funds by guaranty agencies, financial institutions, IHEs, and third-party servicers, the Department may disclose records to Federal and State agencies;

(h) To enforce the terms of a loan or grant or to assist in the collection of loan or grant overpayments, the Department may disclose records to guaranty agencies and financial institutions participating in the FFEL programs, IHEs, third-party servicers, and Federal, State, and local agencies;

(i) To assist borrowers in repayment, the Department may disclose records to guaranty agencies and financial institutions participating in the FFEL program, IHEs, third-party servicers, and Federal, State, and local agencies;

(j) To initiate legal action against an individual involved in an illegal or unauthorized title IV, HEA program expenditure or activity, the Department may disclose records to guaranty agencies and financial institutions participating in the FFEL programs, IHEs, third-party servicers, and Federal, State, and local agencies;

(k) To initiate or support a limitation, suspension, or termination action, an emergency action, or a debarment or suspension action, the Department may disclose records to guaranty agencies and financial institutions participating in the FFEL programs, IHEs, third-party servicers, and Federal, State, and local agencies;

(l) To investigate complaints, update files, and correct errors, the Department may disclose records to guaranty agencies and financial institutions participating in the FFEL programs, IHEs, third-party servicers, and Federal, State, and local agencies;

(m) To inform the parent(s) of a dependent applicant of information about the parent(s) in an application for title IV, HEA funds, the Department may disclose records to the parent(s);

(n) To disclose to the parent(s) of a dependent applicant applying for a PLUS loan (to be used on behalf of a student), to identify the student as the correct beneficiary of the PLUS loan funds, and to allow the processing of the PLUS loan application and promissory note, the Department may disclose records to the parent(s) applying for the PLUS loan;

(o) To expedite the student application process, the Department may disclose information from this system, upon request by a third party, provided that the third party provides the Department with the applicant's first and last name, SSN, date of birth, and DRN;

(p) To enable an applicant, should the applicant wish to do so, to obtain information from other Federal agencies' records that will assist the applicant in completing the FAFSA online, the Department may disclose information from this system of records to other Federal agencies, such as the IRS; and

(q) To determine an applicant's eligibility for the award of State postsecondary education assistance and for the award of aid by eligible IHEs or other entities designated by the Secretary and to administer those awards, the Department may disclose information from this system of records to State agencies, eligible IHEs, and other entities designated by the Secretary.

(2) *Enforcement Disclosure.* If information in the system of records, either alone or in connection with other information, indicates a violation or potential violation of any applicable statutory, regulatory, or legally binding requirement, the Department may disclose records to an entity charged with investigating or prosecuting those violations or potential violations.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosure.*

(a) *Introduction.* In the event that one of the parties listed in sub-paragraphs (i) through (v) is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department or any of its components;

(ii) Any Department employee in his or her official capacity;

(iii) Any Department employee in his or her individual capacity where the Department of Justice (DOJ) agrees to or has been requested to provide or arrange for representation of the employee;

(iv) Any Department employee in his or her individual capacity where the Department has agreed to represent the employee; and

(v) The United States, where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Adjudicative Disclosure.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear or to a person or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the adjudicative body, person, or entity.

(d) *Disclosure to Parties, Counsel, Representatives, and Witnesses.* If the Department determines that disclosure of certain records is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the party, counsel, representative, or witness.

(4) *Freedom of Information Act (FOIA) and Privacy Act Advice Disclosure.* The Department may disclose records to the DOJ or to the Office of Management and Budget (OMB) if the Department determines that disclosure would help in determining whether records are required to be disclosed under the FOIA or the Privacy Act.

(5) *Contract Disclosure.* If the Department contracts with an entity to perform any function that requires disclosing records to the contractor's employees, the Department may disclose the records to those employees. As part of such a contract, the Department shall require the contractor to agree to establish and maintain safeguards to protect the security and confidentiality of the records in the system.

(6) *Congressional Member Disclosure.* The Department may disclose records to a Member of Congress in response to an inquiry from the Member made at the written request of the individual whose records are being disclosed. The Member's right to the information is no greater than the right of the individual who requested it.

(7) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(8) *Employee Grievance, Complaint, or Conduct Disclosure.* If a record is relevant and necessary to an employee grievance, complaint, or disciplinary action involving a present or former employee of the Department, the Department may disclose a record from this system of records in the course of investigation, fact-finding, or adjudication to any party to the grievance, complaint, or action; to the party's counsel or representative; to a witness; or to a designated fact-finder, mediator, or other person designated to resolve issues or decide the matter.

(9) *Labor Organization Disclosure.* The Department may disclose records from this system of records to an arbitrator to resolve disputes under a negotiated grievance procedure or to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation.

(10) *Disclosure to the DOJ.* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(11) *Research Disclosure.* The Department may disclose records to a researcher if the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The Department may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to agree to establish and maintain safeguards to protect the security and confidentiality of the disclosed records.

(12) *Disclosure to the OMB and Congressional Budget Office (CBO) for Federal Credit Reform Act (FCRA) Support.* The Department may disclose records to OMB and CBO as necessary to fulfill FCRA requirements in accordance with 2 U.S.C. 661b.

(13) *Disclosure to Third Parties through Matching Programs.* Any information from this system of records, including personal information obtained from other agencies through matching programs, may be disclosed to any third party through a matching program in connection with an individual's application or participation in a title IV, HEA grant or loan program administered by the Department. Purposes of these disclosures may be to determine program eligibility and benefits, enforce the conditions and terms of a loan or grant, permit the servicing and collecting of a loan or grant, counsel the individual in repayment efforts, investigate possible fraud, verify compliance with program regulations, locate a delinquent or defaulted debtor, or initiate legal action against an individual involved in program fraud or abuse.

(14) *Disclosure in the Course of Responding to Breach of Data.* The Department may disclose records to appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that there has been a breach of the system of records; (b) the Department has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Department (including its information systems, program, and operation), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(15) *Disclosure in Assisting another Agency in Responding to a Breach of Data.* The Department may disclose records from this system to another Federal agency or Federal entity, when the Department determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(16) *Disclosure of Information to State and Federal Agencies.* The Department may disclose records from this system to (a) a Federal or State agency, its employees, agents (including contractors of its agents), or contractors, or (b) a fiscal or financial agent designated by the U.S. Department of the Treasury, including employees, agents, or contractors of such agent, for the purpose of identifying, preventing, or recouping improper payments to an applicant for, or recipient of, Federal funds.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose the following information to a consumer reporting agency regarding a valid overdue claim of the Department: (1) The name, address, taxpayer identification number, and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

System records are paper-based and stored in locked rooms or electronic and stored on secured computer systems and in the cloud.

Paper applications are stored in standard Federal Records Center boxes in locked storage rooms at the contractor facility in London, Kentucky, and then moved to the Federal Records Center at the National Archives and Records Administration (NARA), where the records are stored until disposed.

Digitized paper applicant records, which include optically imaged documents, are stored on DADS (disks) in a virtual disk library, which is also electronic, in the computer facilities controlled by the Federal Student Aid Data Center.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are indexed and retrieved by the applicant's SSN, name, and the academic year in which the applicant applied for title IV, HEA program assistance.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Department of Education Records Schedule No. 072 (DAA–0441–2013–0002), FSA Application, Origination, and Disbursement Records (ED 072) is being amended, pending approval by NARA. Applicable Department records will not be destroyed until applicable NARA-approved amendments to ED 072 are in effect.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

All users of the Federal Student Aid Application File system will have a unique user ID with a password. All physical access to the data housed at system locations is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge. The computer system employed by the Department offers a high degree of resistance to tampering and circumvention with firewalls, encryption, and password protection. This security system limits data access to Department and contract staff on a ''need-to-know'' basis, and controls individual users' ability to access and alter records within the system. All interactions by users of the Federal Student Aid Application File system are recorded.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, you must make a Privacy Act request through the U.S. Department of Education, FOIA Office at *https://www2.ed.gov/policy/gen/leg/foia/request_privacy.html* by completing the applicable request forms. Requests by an individual for access to a record must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest or change the content of a record about you in the system of records, provide the System Manager with your name, date of birth, SSN, and any other identifying information requested by the Department, while processing the request, to distinguish between individuals with the same name. Identify the specific items to be changed, and provide a justification for the change.

To contest the content of a FAFSA record for the current processing year (which begins on October 1 of the prior calendar year and continues for 21 months until June 30 of the following calendar year), send your request to the FOIA Office listed in the Notification Procedures section.

Requests to amend a record must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.7.

NOTIFICATION PROCEDURES:

If you wish to determine whether a record exists about you in the system of records, you must make a Privacy Act request through the U.S. Department of Education, FOIA Office at *https://www2.ed.gov/policy/gen/leg/foia/request_privacy.html* by completing the applicable request forms. Requests for notification about whether the system of records contains information about an individual must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

The system of records was published in the **Federal Register** at 64 FR 30159–30161 (June 4, 1999), corrected by 64 FR 72384, 72407 (December 27, 1999), corrected by 65 FR 11294–11295 (March 2, 2000), corrected by 66 FR 18758 (April 11, 2001), altered by 74 FR 68802–68808 (December 29, 2009), and most recently altered by 76 FR 46774–46781 (August 3, 2011).

Appendix to 18–11–01

ADDITIONAL INFORMATION ABOUT CATEGORIES OF RECORDS IN THE SYSTEM AND RECORD SOURCE CATEGORIES:

Data provided to the Department as a result of computer matching with other Federal agencies are added during CPS processing. The Department's present computer matches are with the SSA to verify the SSNs of applicants, and dependent applicants' parent(s), and to confirm the U.S. citizenship status of applicants as recorded in SSA records and date of death (if applicable) of applicants, and dependent applicants' parents, pursuant to sections 428B(f)(2), 483(a)(12), and 484(g) and (p) of the HEA (20 U.S.C. 1078–2(f)(2), 1090(a)(12), and 1091(g)and (p)); with the VA to verify the status of applicants who claim to be veterans, pursuant to section 480(c) and (d)(1)(D) of the HEA (20 U.S.C. 1087vv(c) and (d)(1)(D)); with the SSS to confirm the registration status of male applicants, pursuant to section 484(n) of the HEA (20 U.S.C. 1091(n)); with the DHS to confirm the immigration status of applicants for assistance as authorized by section 484(g) of the HEA (20 U.S.C. 1091(g)); with the DOJ to enforce any requirement imposed at the discretion of a court, pursuant to section 5301 of the Anti-Drug Abuse Act of 1988, Public Law 100–690, as amended by section 1002(d) of the Crime Control Act of 1990, Public Law 101–647 (21 U.S.C. 862), denying Federal benefits under the programs established by title IV of the HEA to any individual convicted of a State or Federal offense for the distribution or possession of a controlled substance; and with the DoD to identify dependents of U.S. military personnel who died in service in Iraq and Afghanistan after September 11, 2001, to determine if they are eligible for increased amounts of title IV, HEA program assistance, pursuant to sections

420R and 473(b) of the HEA (20 U.S.C. 1070h and 1087mm(b)).

During CPS processing, the Department's COD System sends information to this system for students who have received a Federal Pell Grant. The CPS uses this information for verification analysis and for end-of-year reporting. These data include, but are not limited to: Verification Selection and Status, Potential Over-award Project (POP) indicator, Institutional Cost of Attendance, Reporting and Attended Campus Pell ID and Enrollment Date, and Federal Pell Grant Program information (Scheduled Federal Pell Grant Award, Origination Award Amount, Total Accepted Disbursement Amount, Number of Disbursements Accepted, Percentage of Eligibility Used At This Attended Campus Institution, and Date of Last Activity from the Origination or Disbursement table).

The CPS also receives applicant data from the Department's NSLDS system each time an application is processed or corrected. This process assesses student aid eligibility, updates financial aid history, and ensures compliance with title IV, HEA regulations. Some of these data appear on the applicant's SAR and ISIR. Title IV, HEA award information is provided to NSLDS from several different sources. Federal Perkins Loan data and Federal Supplemental Educational Opportunity Grant (FSEOG) overpayment data are sent from postsecondary institutions or their third-party servicers; the Department's COD System provides Federal Pell Grant and Direct Loan data; and State and guaranty agencies provide data on FFEL loans received from lending institutions participating in the FFEL programs. Financial aid transcript data reported by NSLDS provides applicants, postsecondary institutions, and third-party servicers with information about the type(s), amount(s), dates, and overpayment status of prior and current title IV, HEA funds the applicant received. FFEL and William D. Ford Federal Direct Student Loan (DL) data reported by NSLDS include, but are not limited to: (1) Aggregate Loan Data, such as Subsidized, Unsubsidized; Combined Outstanding Principal Balances; Unallocated Consolidated Outstanding Principal Balances, Subsidized, Unsubsidized; Combined Pending Disbursements, Subsidized, Unsubsidized; Combined Totals; and Unallocated Consolidated Totals; (2) Detailed Loan Data, such as Loan Sequence Number; Loan Type Code; Loan Change Flag; Loan Program Code; Current Status Code and Date; Outstanding Principal Balance and Date; Net Loan Amount; Loan Begin and End Dates; Amount and Date of Last Disbursement; Guaranty Agency Code; School Code; Contact Code; and Institution Type and Grade Level; and (3) system flags for Additional Unsubsidized Loan; Capitalized Interest; Defaulted Loan Change; Discharged Loan Change; Loan Satisfactory Repayment Change; Active Bankruptcy Change; Overpayments Change; Aggregate Loan Change; Defaulted Loan; Discharged Loan; Loan Satisfactory Repayment; Active Bankruptcy; Additional Loans; DL Master Promissory Note; DL PLUS Loan Master Promissory Note; Subsidized Loan Limit; and the Combined Loan Limit. Federal Perkins Loan data reported by NSLDS include, but are not limited to: Cumulative and Current Year Disbursement Amounts; flags for Perkins Loan Change; Defaulted Loan; Discharged Loan; Loan Satisfactory Repayment; Active Bankruptcy; Additional Loans; and Perkins Overpayment Flag and Contact (School or Region). Federal Pell Grant payment data reported include, but are not limited to: Pell Sequence Number; Pell Attended School Code; Pell Transaction Number; Last Update Date; Scheduled Amount; Award Amount; Amount Paid to Date; Percent Scheduled Award Used; Pell Payment EFC; Flags for Pell Verification; and Pell Payment Change. Federal Teacher Education Assistance for College and Higher Education (TEACH) Grant Program data include, but are not limited to: TEACH Grant Overpayment Contact; TEACH Grant Overpayment Flag; TEACH Grant Loan Principal Balance; TEACH Grant Total; and Teach Grant Change Flag. Iraq and Afghanistan Service Grants data include, but are not limited to: Total Award Amount. The Department obtains and exchanges information that is included in this system of records from postsecondary institutions, third-party servicers, and State agencies. These eligible entities register with the SAIG system to participate in the information exchanges specified for their business processes.

[FR Doc. 2019–23581 Filed 10–28–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2019–ICCD–0136]

Agency Information Collection Activities; Comment Request; Application for Borrower Defense to Loan Repayment Form

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before December 30, 2019.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2019–ICCD–0136. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner;

(3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Application for Borrower Defense to Loan Repayment Form.

OMB Control Number: 1845–0146.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Individuals or Households

Total Estimated Number of Annual Responses: 96,000.

Total Estimated Number of Annual Burden Hours: 48,000.

Abstract: The Department of Education (the Department) requests approval of this extension without change of the Application for Borrower Defense to Loan Repayment form (''Universal Borrower Defense Form'') to ensure that all borrowers have a consistent platform to petition for relief, and to facilitate the Department's receipt of clear and complete information necessary to process applications efficiently. This form will facilitate processing claims from student borrowers who believe that they have a Borrower Defense claim regarding their Federal Loans. The form will provide borrowers with an easily accessible and clear method to provide the information necessary for the Department to review and process claim applications efficiently. A successful Borrower Defense claim would provide a full or partial discharge of a borrower's loans, and if appropriate, reimbursement of amounts previously paid.

Dated: October 23, 2019.

Kate Mullan,

PRA Coordinator, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.

[FR Doc. 2019–23532 Filed 10–28–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–6–000]

Southern Natural Gas Company, LLC; Notice of Request Under Blanket Authorization

Take notice that on October 18, 2019, Southern Natural Gas Company, LLC, (SNG), 569 Brookwood Village, Suite 749, Birmingham, Alabama 35209, filed in Docket No. CP20–6–000 a prior notice request pursuant to sections 157.205, and 157.216 of the Commission's regulations under the Natural Gas Act, and SNG's blanket certificate issued in Docket No. CP82–406–000. SNG proposes to abandon in place two compressor units at its Rankin Compressor Station, located in Rankin County, Mississippi, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to T. Brooks Henderson, Director—Rates & Regulatory, Southern Natural Gas Company, LLC, 569 Brookwood Village, Suite 749, Birmingham, Alabama 35209, by telephone at (205) 325–3843, or by fax at (205) 325–3787, or by email at *brooks_henderson@kindermorgan.com.*

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list and will be notified of any meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters, will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 3 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

Dated: October 23, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–23587 Filed 10–28–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14862–001]

Douglas Leen; Notice of Application Accepted for Filing, Intent To Waive Scoping, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Terms and Conditions, Recommendations, Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Exemption from Licensing.

b. *Project No.:* 14862–001.

c. *Date filed:* November 28, 2018.

d. *Applicant:* Douglas Leen.

e. *Name of Project:* Kupreanof Microhydro Project.

f. *Location:* On an unnamed stream, in Petersburg Borough, Alaska. The project would occupy 0.651 acre of federal land managed by the U.S. Forest Service.

g. *Filed Pursuant to:* Public Utilities Regulatory Policies Act of 1978, 16 U.S.C. 2705, 2708.

h. *Applicant Contact:* Douglas Leen, P.O. Box 341, Petersburg, Alaska 99833, (907) 518–0335; *mail@dougleen.com.*

i. *FERC Contact:* John Matkowski, (202) 502–8576, or *john.matkowski@ferc.gov.*

j. On September 26, 2019, the applicant informed the Commission of its intent to convert its application for minor license filed on November 28, 2018 to an application for exemption from licensing and included additional information necessary to augment the license application and convert it to an application for exemption from licensing. Pursuant to 18 CFR 4.31(c)(2) (2019), an applicant for an exemption is required to have sufficient rights in any non-federal land required for the project prior to filing its application. On October 8, 2019, the applicant provided documentation that it had the property rights for the non-federal lands necessary to develop the project.

k. *Deadline for filing motions to intervene and protests, comments, terms and conditions, recommendations, and prescriptions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, terms and conditions, recommendations, and prescriptions using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–14862–001.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. This application has been accepted for filing and is now ready for environmental analysis.

m. *Project Description:* The proposed project would consist of: (1) Two surface water intakes: (a) A 3-foot-long, 1.5-foot-wide, 1.5-foot-deep steel intake box located in the east branch of the unnamed stream; and, (b) a 2.5-foot-long, 1-foot-wide, 1.25-foot-deep, steel intake box located in the west branch of the unnamed stream; (2) a 6-inch diameter, 458-foot-long, plastic penstock connecting the east branch intake to the powerhouse; (3) a 3-inch-diameter, 30-foot-long, plastic penstock connecting the west branch intake to the penstock leading from the east branch intake; (5) a powerhouse containing 1.5-kilowatt (kW) turbine/generator unit; (6) a tailrace that discharges into the mainstem unnamed stream; (7) a 420-foot-long, partially buried transmission line; and (8) appurtenant facilities. The project is estimated to generate an average of 550 megawatt-hours annually.

n. Due to the small size and location of this project, the applicant's close coordination with federal and state agencies during preparation of the application, and studies completed during pre-filing consultation, we intend to waive scoping and expedite the licensing process. Based on a review of the application and resource agency consultation letters including comments filed to date, Commission staff intends to prepare a single environmental assessment (EA). Commission staff determined that the issues that need to be addressed in its EA have been adequately identified during the pre-filing period, and no new issues are likely to be identified through additional scoping. The EA will consider assessing the potential effects of project operation on geology and soils, aquatic, terrestrial, threatened and endangered species, recreation, and cultural and historic resources.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified intervention deadline date, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified intervention deadline date. Applications for preliminary permits will not be accepted in response to this notice.

A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a development application. A notice of intent must be served on the applicant(s) named in this public notice.

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title PROTEST, MOTION TO

INTERVENE, NOTICE OF INTENT TO FILE COMPETING APPLICATION, COMPETING APPLICATION, COMMENTS, REPLY COMMENTS, RECOMMENDATIONS, TERMS AND CONDITIONS, or PRESCRIPTIONS; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: October 23, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–23588 Filed 10–28–19; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2019–0437; FRL–9999–69]

Methylene Chloride (MC); Draft Toxic Substances Control Act (TSCA) Risk Evaluation and TSCA Science Advisory Committee on Chemicals (SACC) Meeting; Notice of Availability, Public Meeting, and Request for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing the availability of and soliciting public comment on the draft Toxic Substances Control Act (TSCA) risk evaluation of Methylene Chloride (MC). The purpose of the risk evaluation process under TSCA is to determine, upon issuance of a final risk evaluation, whether a chemical substance presents an unreasonable risk of injury to health or the environment under the conditions of use, including an unreasonable risk to a relevant potentially exposed or susceptible subpopulation. EPA is also submitting the same document to the TSCA Science Advisory Committee on Chemicals (SACC) for peer review and is announcing that there will be an in-person public meeting of the TSCA SACC to consider and review the draft risk evaluation. Preceding the in-person meeting, there will be a preparatory virtual public meeting for the panel to consider the scope and clarity of the draft charge questions for the peer review.

DATES:

Virtual Meeting: The preparatory virtual meeting will be held on November 12, 2019, from 1:00 p.m. to approximately 4:00 p.m. (EST). You must register online on or before November 12, 2019 to receive the webcast meeting link and audio teleconference information. Submit your written comments for the preparatory virtual meeting, or request time to present oral comments, on or before noon, November 8, 2019.

In-Person Meeting: The in-person meeting will be held on December 3–4, 2019, from 9:00 a.m. to approximately 5:30 p.m. (EST) each day. Any comments submitted on the draft risk evaluation on or before November 26, 2019 will be provided to the SACC to allow them time to review and consider them before the peer review meeting. Comments received after November 26, 2019 and prior to the end of the oral public comment period during the meeting will be considered by EPA and available to the SACC for their consideration. Please submit requests to present oral comments during the in-person meeting on or before December 3, 2019 to be included on the meeting agenda.

Comments: All comments on the draft risk evaluation must be received on or before December 30, 2019.

For additional instructions, see Unit III. of the **SUPPLEMENTARY INFORMATION**.

ADDRESSES: *Virtual Meeting:* Please visit *http://www.epa.gov/tsca-peer-review* to register.

In-Person Meeting: The in-person meeting will be held at the Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, VA. Additional meeting information can be found on the TSCA SACC website at *http://www.epa.gov/tsca-peer-review.*

Comments: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2019–0437 by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPPT Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

Requests to present oral comments and requests for special accommodations. Submit requests for special accommodations, or requests to present oral comments during the virtual meeting and/or the in-person peer review meeting, to the Designated Federal Official (DFO) listed under **FOR FURTHER INFORMATION CONTACT** by the deadline identified in the **DATES** section.

FOR FURTHER INFORMATION CONTACT:

TSCA SACC meeting: Dr. Todd Peterson, DFO, Office of Science Coordination and Policy (7201M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–6428; email address: *peterson.todd@epa.gov.*

Draft Risk Evaluation: Dr. Stan Barone, Office of Pollution Prevention and Toxics (7403M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–1169; email address: *barone.stan@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may be of interest to persons who are or may be required to conduct testing and those interested in risk evaluations of chemical substances under TSCA, 15 U.S.C. 2601 *et seq.* Since other entities may also be interested in these draft risk evaluations, the EPA has not attempted to describe all the specific entities that may be affected by this action.

B. What is EPA's authority for taking this action?

TSCA section 6, 15 U.S.C. 2605, requires EPA to conduct risk evaluations to ''determine whether a chemical substance presents an unreasonable risk of injury to health or the environment, without consideration of costs or other nonrisk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant to the risk evaluation by the Administrator, under the conditions of use.'' 15 U.S.C. 2605(b)(4)(A). TSCA sections 6(b)(4)(A) through (H) enumerate the deadlines and minimum requirements applicable to this process, including provisions that provide instruction on chemical substances that must undergo evaluation, the minimum components of a TSCA risk evaluation, and the timelines for public comment and completion of the risk evaluation. TSCA also requires that EPA operate in a manner that is consistent with the best available science, make decisions based on the weight of the scientific evidence and consider reasonably available information. 15 U.S.C. 2625(h), (i), and (k).

The statute identifies the minimum components for all chemical substance risk evaluations. For each risk evaluation, EPA must publish a document that outlines the scope of the risk evaluation to be conducted, which includes the hazards, exposures, conditions of use, and the potentially exposed or susceptible subpopulations that EPA expects to consider. 15 U.S.C. 2605(b)(4)(D). The statute further provides that each risk evaluation must also: (1) Integrate and assess available information on hazards and exposures for the conditions of use of the chemical substance, including information on specific risks of injury to health or the environment and information on relevant potentially exposed or susceptible subpopulations; (2) describe whether aggregate or sentinel exposures were considered and the basis for that consideration; (3) take into account, where relevant, the likely duration, intensity, frequency, and number of exposures under the conditions of use; and (4) describe the weight of the scientific evidence for the identified hazards and exposures. 15 U.S.C. 2605(b)(4)(F)(i)–(ii) and (iv)–(v). Each risk evaluation must not consider costs or other nonrisk factors. 15 U.S.C. 2605(b)(4)(F)(iii).

The statute requires that the risk evaluation process last no longer than three years, with a possible additional six-month extension. 15 U.S.C. 2605(b)(4)(G). The statute also requires that the EPA allow for no less than a 30-day public comment period on the draft risk evaluation, prior to publishing a final risk evaluation. 15 U.S.C. 2605(b)(4)(H).

C. What action is EPA taking?

EPA is announcing the availability of and seeking public comment on the draft risk evaluation of the chemical substances identified in Unit II. EPA is seeking public comment on all aspects of the draft risk evaluation, including any preliminary conclusions, findings, and determinations, and the submission of any additional information that might be relevant to the draft risk evaluation, including the science underlying the draft risk evaluation and the outcome of the systematic review associated with the chemical substances. This 60-day comment period on the draft risk evaluation satisfies TSCA section 6(b)(4)(H), which requires EPA to ''provide no less than 30 days public notice and an opportunity for comment on a draft risk evaluation prior to publishing a final risk evaluation,'' and 40 CFR 702.49(a), which states that ''EPA will publish a draft risk evaluation in the **Federal Register**, open a docket to facilitate receipt of public comment, and provide no less than a 60-day comment period, during which time the public may submit comment on EPA's draft risk evaluation.'' In addition to any new comments on the draft risk evaluation, the public should resubmit or clearly identify any previously filed comments, modified as appropriate, that are relevant to the draft risk evaluation and that the submitter feels have not been addressed. EPA does not intend to respond to comments submitted prior to the release of the draft risk evaluation unless they are clearly identified in comments on the draft risk evaluation.

EPA is also submitting the draft risk evaluation and associated supporting documents to the TSCA SACC for peer review and announcing the meeting for the peer review panel. All comments submitted to the dockets on the draft risk evaluation by the deadline identified in the **DATES** section will be provided for consideration to the TSCA SACC peer review panel, which will have the opportunity to consider the comments during its discussions.

D. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Draft TSCA Risk Evaluation

A. What is EPA's risk evaluation process for existing chemicals under TSCA?

The risk evaluation process is the second step in EPA's existing chemical process under TSCA, following prioritization and before risk management. As these chemicals are part of the first ten chemical substances undergoing risk evaluation, these chemical substances were not required to go through prioritization (81 FR 91927, December 19, 2016) (FRL–9956–47). The purpose of risk evaluation is to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment, under the conditions of use, including an unreasonable risk to a relevant potentially exposed or susceptible subpopulation. As part of this process, EPA must evaluate both hazard and exposure, not consider costs or other nonrisk factors, use reasonably available information and approaches in a manner that is consistent with the requirements in TSCA for the use of the best available science, and ensure decisions are based on the weight-of-scientific-evidence.

The specific risk evaluation process that EPA has established by rule to implement the statutory process is set out in 40 CFR part 702 and summarized on EPA's website at *http://www.epa.gov/assessing-and-managing-chemicals-under-tsca/risk-evaluations-existing-chemicals-under-tsca.* As explained in the preamble to EPA's final rule on procedures for risk evaluation (82 FR 33726, July 20, 2017) (FRL–9964–38), the specific regulatory process set out in 40 CFR part 702, subpart B will be followed for the first ten chemical substances undergoing risk evaluation to the maximum extent practicable.

B. What is MC?

Methylene chloride (MC), also known as dichloromethane and DCM, is a volatile chemical used as a solvent in a wide range of industrial, commercial and consumer applications. The primary uses for methylene chloride are for paint removal, adhesives, pharmaceutical manufacturing, metal cleaning, aerosol solvents, chemical processing and flexible polyurethane foam manufacturing. Information from the 2016 Chemical Data Reporting (CDR) for MC indicates the reported production volume is more than 260 million lbs/year (manufacture and import).

Information about the problem formulation and scope phases of the TSCA risk evaluation for this chemical is available at *http://www.epa.gov/assessing-and-managing-chemicals-under-tsca/risk-evaluation-methylene-chloride-0.*

III. TSCA SACC

A. What is the purpose of the TSCA SACC?

The TSCA SACC was established by EPA in 2016 and operates in accordance with the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix 2 *et seq.* The TSCA SACC provides expert independent scientific advice and consultation to the EPA on the scientific and technical aspects of risk assessments, methodologies, and pollution prevention measures and approaches for chemicals regulated under TSCA.

The TSCA SACC is comprised of experts in: Toxicology; human health and environmental risk assessment; exposure assessment; and related sciences (*e.g.,* synthetic biology, pharmacology, biotechnology, nanotechnology, biochemistry, biostatistics, physiologically based pharmacokinetic modelling (PBPK) modeling, computational toxicology, epidemiology, environmental fate, and environmental engineering and sustainability). When needed, the committee will be assisted in their reviews by ad hoc participants with specific expertise in the topics under consideration.

B. How can I access the TSCA SACC documents?

EPA's background documents, related supporting materials, and draft charge questions to the TSCA SACC are available on the TSCA SACC website and in the docket established for the specific chemical substances. In addition, EPA will provide additional background documents (*e.g.,* TSCA SACC members participating in this meeting and the meeting agenda) as the materials become available. You may obtain electronic copies of these documents, and certain other related documents that might be available, in the docket at *http://www.regulations.gov* and the TSCA SACC website at *http://www.epa.gov/tsca-peer-review.*

After the public meeting, the TSCA SACC will prepare meeting minutes summarizing its recommendations to EPA. The meeting minutes will be posted on the TSCA SACC website and in the relevant docket.

C. What do I need to know about the TSCA SACC public meetings?

The focus of the public meeting is to peer review EPA's draft risk evaluation. After the peer review process, EPA will consider peer reviewer comments and recommendations, and public comments, in finalizing the risk evaluation. The draft risk evaluation contains: Discussion of chemistry and physical-chemical properties; characterization of conditions of use; environmental fate and transport assessment; human health exposures; environmental hazard assessment; risk characterization; risk determination; and a detailed description of the systematic review process developed by the Office of Pollution Prevention and Toxics to search, screen, and evaluate scientific literature for use in the risk evaluation process.

D. How do I participate in the public meetings?

You may participate in the public meetings by following the instructions in this unit. To ensure proper receipt by EPA, it is imperative that you identify the corresponding docket ID number in the subject line on the first page of your request.

1. Preparatory virtual meeting. The preparatory virtual meeting will be conducted via webcast and telephone. You may participate in the preparatory virtual meeting by registering to join the webcast. You may also submit written comments or request time for oral comments.

i. *Registration.* You must register to participate in the preparatory virtual meeting. To participate by listening or making a comment during this meeting, please go to the EPA website to register: *http://www.epa.gov/tsca-peer-review.* Registration online will be confirmed by an email that will include the webcast meeting link and audio teleconference information.

ii. *Written comments.* Written comments for consideration during the preparatory virtual meeting should be submitted, using the instructions in **ADDRESSES** and this unit, on or before the date set in the **DATES** section.

iii. *Oral comments.* Requests to make brief oral comments to the TSCA SACC during the preparatory virtual meeting should be submitted when registering online or with the DFO listed under **FOR FURTHER INFORMATION CONTACT** on or before noon on the date set in the **DATES** section. Oral comments before the TSCA SACC during the preparatory virtual meeting are limited to approximately 5 minutes due to the time constraints of this virtual meeting.

2. *In-person meeting.* You may participate in the in-person public meeting by attending and by providing written or oral comments. The in-person meeting may also be webcast. Please refer to the TSCA SACC website at *http://www.epa.gov/tsca-peer-review* for information on how to access the webcast. Please note that for the in-person meeting, the webcast is a supplementary public process provided only for convenience. If difficulties arise resulting in webcasting outages, the in-person meeting will continue as planned.

i. *Seating at the meeting.* Seating at the meeting will be open and on a first-come basis.

ii. *Written comments.* To provide the TSCA SACC the time necessary to consider and review your comments, written comments must be submitted by the date set in the **DATES** section and using the instructions in the **ADDRESSES** section and this unit. Comments received after the date set in the **DATES** section and prior to the end of the oral public comment period during the meeting will still be provided to the TSCA SACC for their consideration.

iii. *Oral comments.* To be included on the meeting agenda, submit your request to make brief oral comments at the in-person meeting to the DFO listed under **FOR FURTHER INFORMATION CONTACT** on or before the date set in the **DATES** section. The request should identify the name of the individual making the presentation, the organization (if any) the individual will represent, and any requirements for audiovisual equipment. Oral comments before TSCA SACC during the in-person meeting are limited to approximately 5 minutes unless prior arrangements have been made. In addition, each speaker should bring 30 copies of the comments and presentation for distribution by the DFO to the TSCA SACC at the meeting.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: October 23, 2019.

Andrew R. Wheeler,

Administrator.

[FR Doc. 2019–23614 Filed 10–24–19; 4:15 pm]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request (OMB No. 3064–0029; –0030; –0070; –0104; –0204)

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its obligations under the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to take this opportunity to comment on the renewal of the existing information collections described below (OMB No. 3064–0029; –0030; –0070; –0104; –0204).

DATES: Comments must be submitted on or before December 30, 2019.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

• *https://www.FDIC.gov/regulations/laws/federal.*

• *Email: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.

• *Mail:* Manny Cabeza (202–898–3767), Regulatory Counsel, MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

• *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Manny Cabeza, Regulatory Counsel, 202–898–3767, *mcabeza@fdic.gov,* MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently approved collections of information:

1. *Title:* Notification of Performance of Bank Services.

OMB Number: 3064–0029.

Form Number: 6120/06.

Affected Public: Insured state nonmember banks and state savings associations.

Burden Estimate:

SUMMARY OF ANNUAL BURDEN

Information collection description	Type of burden	Obligation to respond	Estimated number of respondents	Estimated frequency of responses	Estimated time per response (minutes)	Estimated annual burden (hours)
Notification of Performance of Bank Services (FDIC Form 6120/06)	Reporting	Mandatory	634	On Occasion	30	318

Total Estimated Annual Burden: 318.

General Description of Collection: Insured state nonmember banks are required to notify the FDIC, under section 7 of the Bank Service Company Act (12 U.S.C. 1867), of the relationship with a bank service company. The Form FDIC 6120/06, Notification of Performance of Bank Services, may be used by banks to satisfy the notification requirement. There is no change in the method or substance of the collection. The estimated number of respondents is estimated to increase based on the response rate observed over the last three years. The estimated time per response and the frequency of response is expected to remain the same.

2. *Title:* Securities of State Nonmember Banks and State Savings Associations.

OMB Number: 3064–0030.

Affected Public: Insured state nonmember banks and state savings associations.

Type of Burden: Reporting.

Obligation to Respond: Mandatory.

Burden Estimate:

SUMMARY OF BURDEN

	Estimated number of responses	Estimated time to respond (hours)	Frequency of response	Estimated number of responses per year	Estimated annual burden (hours)
Form 3—Initial Statement of Beneficial Ownership	58	1	On Occasion	1	58
Form 4—Statement of Changes in Beneficial Ownership	297	0.5	On Occasion	4	594
Form 5—Annual Statement of Beneficial Ownership	69	1	Annual	1	69
Form 8–A	2	3	On Occasion	2	12
Form 8–C	2	2	On Occasion	1	4
Form 8–K	21	2	On Occasion	4	168
Form 10	2	215	On Occasion	1	430
Form 10–C	1	1	On Occasion	1	1
Form10–K	21	140	Annual	1	2,940
Form 10–Q	21	100	Quarterly	3	6,300
Form 12b–25	6	3	On Occasion	1	18
Form 15	2	1	On Occasion	1	2
Form 25	2	1	On Occasion	1	2
Schedule 13D	2	3	On Occasion	1	6
Schedule 13E–3	2	3	On Occasion	1	6
Schedule 13G	2	3	On Occasion	1	6
Schedule 14A	21	40	Annual	1	840
Schedule 14C	2	40	On Occasion	1	80
Schedule 14D–1 (Schedule TO)	2	5	On Occasion	1	10

SUMMARY OF BURDEN—Continued

	Estimated number of responses	Estimated time to respond (hours)	Frequency of response	Estimated number of responses per year	Estimated annual burden (hours)
Total Estimated Annual Burden					11,546

General Description of Collection: Section 12(i) of the Exchange Act grants authority to the Federal banking agencies to administer and enforce sections 10A(m), 12, 13, 14(a), 14(c), 14(d), 14(f), and 16 of the Exchange Act and sections 302, 303, 304, 306, 401(b), 404, 406, and 407 of the Sarbanes-Oxley Act of 2002. Pursuant to section 12(i), the FDIC has the authority, including rulemaking authority, to administer and enforce these enumerated provisions as may be necessary with respect to state nonmember banks and state savings associations over which it has been designated the appropriate Federal banking agency. Section 12(i) generally requires the FDIC to issue regulations substantially similar to those issued by the Securities and Exchange Commission (SEC) regulations to carry out these responsibilities. Thus, part 335 of the FDIC regulations incorporates by cross-reference the SEC rules and regulations regarding the disclosure and filing requirements of registered securities of state nonmember banks and state savings associations.

This information collection includes the following:

Beneficial Ownership Forms: FDIC Forms 3, 4, and 5 (FDIC Form Numbers 6800/03, 6800/04, and 6800/05). Pursuant to section 16 of the Exchange Act, every director, officer, and owner of more than ten percent of a class of equity securities registered with the FDIC under section 12 of the Exchange Act must file with the FDIC a statement of ownership regarding such securities. The initial filing is on Form 3 and changes are reported on Form 4. The Annual Statement of beneficial ownership of securities is on Form 5. The forms contain information on the reporting person's relationship to the company and on purchases and sales of such equity securities. 12 CFR 335.601 through 336.613 of the FDIC's regulations, which cross-reference 17 CFR 240.16a of the SEC's regulations, provide the FDIC form requirements for FDIC Forms 3, 4, and 5 in lieu of SEC Forms 3, 4, and 5, which are described at 17 CFR 249.103 (Form 3), 249.104 (Form 4), and 249.105 (Form 5).

Forms 8–A and 8–C for Registration of Certain Classes of Securities. Form 8–A is used for registration pursuant to section 12(b) or (g) of the Exchange Act of any class of securities of any issuer which is required to file reports pursuant to section 13 or 15(d) of that Act or pursuant to an order exempting the exchange on which the issuer has securities listed from registration as a national securities exchange. Form 8–C has been replaced by Form 8–A. Form 8–A is described at 17 CFR 249.208a. There is no actual ''Form 8–A'' as filers must produce a customized narrative document in compliance with the requirements in accordance with the filer's particular circumstances.

Form 8–K: Current Report. This is the current report that is used to report the occurrence of any material events or corporate changes that are of importance to investors or security holders and have not been reported previously by the registrant. It provides more current information on certain specified events than would Forms 10–Q and 10–K. The form description is at 17 CFR 249.308. There is no actual ''Form 8–K'' as filers must produce a customized narrative document in compliance with the requirements in accordance with the filer's particular circumstances.

Forms 10 and 10–C: Forms for Registration of Securities. Form 10 is the general reporting form for registration of securities pursuant to section 12(b) or (g) of the Exchange Act of classes of securities of issuers for which no other reporting form is prescribed. It requires certain business and financial information about the issuer. Form 10–C has been replaced by Form 10. Form 10 is described at 17 CFR 249.210. There is no actual ''Form 10'' as filers must produce a customized narrative document in compliance with the requirements in accordance with the filer's particular circumstances.

Form 10–K: Annual Report. This annual report is used by issuers registered under the Exchange Act to provide information described in Regulation S–K, 17 CFR 229. The form is described at 17 CFR 249.310. There is no actual ''Form 10–K'' as filers must produce a customized narrative document in compliance with the requirements in accordance with the filer's particular circumstances.

Form 10–Q: Quarterly Reports. The Form 10–Q is a report filed quarterly by most reporting companies. It includes unaudited financial statements and provides a continuing overview of major changes in the company's financial position during the year, as compared to the prior corresponding period. The report must be filed for each of the first three fiscal quarters of the company's fiscal year and is due within 40 or 45 days of the close of the quarter, depending on the size of the reporting company. The description of Form 10–Q is at 17 CFR 249.308a. There is no actual ''Form 10–Q'' as filers must produce a customized narrative document in compliance with the requirements in accordance with the filer's particular circumstances.

Form 12b–25: Notification of Late Filing. This notification extends the reporting deadlines for filing quarterly and annual reports for qualifying companies. There is no FDIC Form 12b–25. The form is described at 17 CFR 249.322.

Form 15: Certification and Notice of Termination of Registration. This form is filed by each issuer to certify that the number of holders of record of a class of security registered under section 12(g) of the Exchange Act is reduced to a specified level in order to terminate the registration of the class of security. For a bank, the number of holders of record of a class of registered security must be reduced to less than 1,200 persons. For a savings association, the number of record holders of a class of registered security must be reduced to (1) less than 300 persons or (2) less than 500 persons and the total assets of the issuer have not exceeded $10 million on the last day of each of the issuer's most recent three fiscal years. In general, registration terminates 90 days after the filing of the certification. There is no FDIC Form 15. This form is described at 17 CFR 249.323.

Schedule 13D: Certain Beneficial Ownership Changes. This Schedule discloses beneficial ownership of certain registered equity securities. Any person or group of persons who acquire a beneficial ownership of more than 5 percent of a class of registered equity securities of certain issuers must file a Schedule 13D reporting such acquisition together with certain other information within ten days after such acquisition. Moreover, any material changes in the facts set forth in the Schedule generally precipitates a duty to promptly file an amendment on Schedule 13D. The SEC's rules define the term beneficial owner to be any person who directly or indirectly shares voting power or investment power (the power to sell the security). There is no FDIC form for Schadule13D. This schedule is described at 17 CFR 240.13d–101.

Schedule 13E–3: Going Private Transactions by Certain Issuers or Their Affiliates. This schedule must be filed if an issuer engages in a solicitation subject to Regulation 14A or a distribution subject to Regulation 14C, in connection with a going private merger with its affiliate. An affiliate and an issuer may be required to complete, file, and disseminate a Schedule 13E–3, which directs that each person filing the schedule state whether it reasonably believes that the Rule 13e–3 transaction is fair or unfair to unaffiliated security holders. There is no FDIC form for Schedule13E–3. This schedule is described at 17 CFR 240.13e–100.

Schedule 13G: Certain Acquisitions of Stock. Certain acquisitions of stock that are over than 5 percent of an issuer must be reported to the public. Schedule 13G is a much abbreviated version of Schedule 13D that is only available for use by a limited category of persons (such as banks, broker/dealers, and insurance companies) and even then only when the securities were acquired in the ordinary course of business and not with the purpose or effect of changing or influencing the control of the issuer. There is no FDIC form for Schadule13G. This schedule is described at 17 CFR 240.13d–102.

Schedule 14A: Proxy Statements. State law governs the circumstances under which shareholders are entitled to vote. When a shareholder vote is required and any person solicits proxies with respect to securities registered under section 12 of the Exchange Act, that person generally is required to furnish a proxy statement containing the information specified by Schedule 14A. The proxy statement is intended to provide shareholders with the proxy information necessary to enable them to vote in an informed manner on matters intended to be acted upon at shareholders' meetings, whether the traditional annual meeting or a special meeting. Typically, a shareholder is also provided with a proxy card to authorize designated persons to vote his or her securities on the shareholder's behalf in the event the holder does not vote in person at the meeting. Copies of preliminary and definitive (final) proxy statements and proxy cards are filed with the FDIC. There is no FDIC form for Schadule14A. The description of this schedule is at 17 CFR 240.14a–101.

Schedule 14C: Information Required in Information Statements. An information statement prepared in accordance with the requirements of the SEC's Regulation 14C is required whenever matters are submitted for shareholder action at an annual or special meeting when there is no proxy solicitation under the SEC's Regulation 14A. There is no FDIC form for Schadule14C. This schedule is described at 17 CFR 240.14c–101.

Schedule 14D–1: Tender Offer. This schedule is also known as Schedule TO. Any person, other than the issuer itself, making a tender offer for certain equity securities registered pursuant to section 12 of the Exchange Act is required to file this schedule if acceptance of the offer would cause that person to own over 5 percent of that class of the securities. This schedule must be filed and sent to various parties, such as the issuer and any competing bidders. In addition, the SEC's Regulation 14D sets forth certain requirements that must be complied with in connection with a tender offer. This schedule is described at 17 CFR 240.14d–100. There is no actual form for Schedule 14D–1 as filers must produce a customized narrative document in compliance with the requirements in accordance with the filer's particular circumstances.

There is no change in the method or substance of the collection. The estimated number of respondents, as well as the estimated time per response and the frequency of response, is expected to remain the same.

3. *Title:* Application for a Bank to Establish a Branch or Move its Main Office or a Branch.

OMB Number: 3064–0070.

Affected Public: Insured state nonmember banks and state savings associations.

Type of Burden: Reporting.

Obligation to Respond: Mandatory.

Burden Estimate:

SUMMARY OF ANNUAL BURDEN

Information collection description	Type of burden	Obligation to respond	Estimated number of respondents	Estimated frequency of response	Estimated time per response (hours)	Estimated annual burden (hours)
Application to Establish a Branch, Move Main Office or Move Branch ..	Reporting	Mandatory	718	On Occasion	5	3,590

Total Estimated Annual Burden: 3,590.

General Description of Collection: Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) (FDI Act) provides that no FDIC insured state nonmember bank or state savings association shall establish and operate any new domestic branch or move its main office or any such branch from one location to another without the prior written consent of the FDIC. In granting or withholding consent to the applicant, FDIC considers: (a) The financial history and condition of the depository institution; (b) the adequacy of its capital structure; (c) its future earnings prospects; (d) the general character and fitness of its management; (e) the risk presented by the depository institution to the Deposit Insurance Fund; (f) the convenience and needs of the community to be served; and (g) whether its corporate powers are consistent with the purposes of the FDI Act. FDIC regulations found at 12 CFR 303, subpart C, specify the steps that respondents must take to comply with the statutory mandate. There is no change in the method or substance of the collection. The estimated number of respondents has been revised based on the number of responses recorded over the last three years. The estimated time per response and the frequency of response, is expected to remain the same.

4. *Title:* Activities and Investments of Savings Associations.

OMB Number: 3064–0104.

Affected Public: Insured state savings associations.

Type of Burden: Reporting.

Obligation to Respond: Mandatory.

Burden Estimate:

SUMMARY OF ANNUAL BURDEN

Information collection description	Type of burden	Obligation to respond	Estimated number of respondents	Estimated frequency of response	Estimated time per response (hours)	Estimated annual burden (hours)
Application for Exemption—§ 28 and Subsidiary Notice—§ 18(m)	Reporting	Mandatory	18	On Occasion	12	216
Total Estimated Annual Burden						216

General Description of Collection: Section 28 of the Federal Deposit Insurance Act limits the powers of state savings associations to acquire or retain equity investments of a type or amount not permitted for a federal savings association. Section 28 also prohibits insured state savings associations and their subsidiaries from engaging as principal in any activity of a type or in an amount that is not permitted for a federal savings association or its subsidiaries. Section 28 charges the FDIC with the responsibility of enforcing the restrictions and filing requirements, and permits the FDIC to grant exceptions under certain circumstances.

12 CFR part 362 details the activities that state savings associations and/or their subsidiaries may engage in, under certain criteria and conditions, and identifies the information that banks must furnish to the FDIC in order to obtain the FDIC's approval or non-objection.

There is no change in the method or substance of the collection. The estimated number of respondents has been revised upward based on the number of responses recorded over the last three years. The estimated time per response and the frequency of response, is expected to remain the same.

5. *Title:* Margin and Capital Requirements for Covered Swap Entities.

OMB Number: 3064–0204.

Affected Public: Any FDIC-insured state-chartered bank that is not a member of the Federal Reserve System or FDIC-insured state-chartered savings association that is registered as a swap dealer, major swap participant, security-based swap dealer, or major security-based swap participant.

Obligation to Respond: Mandatory.

Burden Estimate:

Regulation	Type of burden	Number of respondents	Estimated annual frequency	Estimated average hours per response	Estimated annual burden hours
§ 349.1(d)(1), (d)(2) Meeting criteria for exemption	Reporting	1	1	1,000	1,000
§ 349.1(h)	Disclosure	1	1	10	10
§ 349.2 Definition of "Eligible Master Netting Agreement," paragraphs (4)(i) and (ii). § 349.8(g) Documentation. § 349.10 Documentation of Margin Matters.	Recordkeeping	1	1	5	5
40+50++20+20++10++250+§ 349.5(c)(2)(i) Required Margin.	Recordkeeping	1	1	4	4
§ 349.7(c) Custody Agreement	Recordkeeping	1	1	100	100
§ 349.8(c) and (d) Initial Margin Model	Reporting	1	1	240	240
§ 349.8(e) Periodic Review	Recordkeeping	1	1	40	40
§ 349.8(f) Control, Oversight, and Validation Mechanisms.					
§ 349.8(f)(3) Initial Margin Modeling Report	Reporting	1	1	50	50
§ 349.8(h) Escalation Procedures	Recordkeeping	1	1	20	20
§ 349.9(e) Requests for Determinations	Reporting	1	3	10	30
§ 349.11(b)(1) Posting Initial Margin	Recordkeeping	1	250	1	250
Totals					1,749

General Description of Collection: The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) required the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the FDIC, the Farm Credit Administration, and Federal Home Finance Agency (each, an agency, and collectively, the agencies) to jointly adopt rules that establish capital and margin requirements for swap entities that are prudentially regulated by one of the agencies (covered swap entities).[1] These capital and margin requirements apply to swaps that are not cleared by a registered derivatives clearing organization or a registered clearing agency (non-cleared swaps).[2] The agencies published regulations that require swap dealers and security-based swap dealers under the agencies' respective jurisdictions to exchange margin with their counterparties for swaps that are not centrally cleared (Swap Margin Rule or Rule). First issued in 2015, the Swap Margin Rule includes

[1] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010). *See* 7 U.S.C. 6s; 15 U.S.C. 78o–10. Sections 731 and 764 of the Dodd-Frank Act added a new section 4s to the Commodity Exchange Act of 1936, as amended, and a new section, section 15F, to the Securities Exchange Act of 1934, as amended, respectively, which require registration with the Commodity Futures Trading Commission (CFTC) of swap dealers and major swap participants and the U.S. Securities and Exchange Commission (SEC) of security-based swap dealers and major security-based swap participants (each a swap entity and, collectively, swap entities). Section 1a(39) of the Commodity Exchange Act of 1936, as amended, defines the term "prudential regulator" for purposes of the margin requirements applicable to swap dealers, major swap participants, security-based swap dealers and major security-based swap participants. *See* 7 U.S.C. 1a(39).

[2] A "swap" is defined in section 721 of the Dodd-Frank Act to include, among other things, an interest rate swap, commodity swap, equity swap, and credit default swap, and a security-based swap is defined in section 761 of the Dodd-Frank Act to include a swap based on a single security or loan or on a narrow-based security index. *See* 7 U.S.C. 1a(47); 15 U.S.C. 78c(a)(68).

a phased compliance schedule from 2016 to 2020 and generally applies only to a non-cleared swap entered into on or after the applicable compliance date. A non-cleared swap entered into prior to an entity's applicable compliance date is ''grandfathered'' by this regulatory provision and is generally not subject to the margin requirements in the Swap Margin Rule (legacy swap) unless it is amended or novated on or after the applicable compliance date. The FDIC's Swap Margin Rule can be found at 12 CFR part 349.

The reporting requirements found in 12 CFR 349.1(d) refer to statutory provisions that set forth conditions for an exemption from clearing. Section 349.1(d)(1) provides an exemption for non-cleared swaps if one of the counterparties to the swap is not a financial entity, is using swaps to hedge or mitigate commercial risk, and notifies the Commodity Futures Trading Commission of how it generally meets its financial obligations associated with entering into non-cleared swaps. Section 349.1(d)(2) provides an exemption for security-based swaps if the counterparty notifies the Securities and Exchange Commission (SEC) of how it generally meets its financial obligations associated with entering into non-cleared security-based swaps. Section 349.2 defines terms used in part 349, including the definition of ''eligible master netting agreement,'' which provides that a covered swap entity that relies on the agreement for purpose of calculating the required margin must: (1) Conduct sufficient legal review of the agreement to conclude with a well-founded basis that the agreement meets specified criteria; and (2) establish and maintain written procedures for monitoring relevant changes in law and to ensure that the agreement continues to satisfy the requirements of this section. The term ''eligible master netting agreement'' is used elsewhere in part 349 to specify instances in which a covered swap entity may: (1) Calculate variation margin on an aggregate basis across multiple non-cleared swaps and security-based swaps and (2) calculate initial margin requirements under an initial margin model for one or more swaps and security-based swaps. Section 349.5(c)(2)(i) specifies that a covered swap entity shall not be deemed to have violated its obligation to collect or post margin from or to a counterparty if the covered swap entity has made the necessary efforts to collect or post the required margin, including the timely initiation and continued pursuit of formal dispute resolution mechanisms, or has otherwise demonstrated upon request to the satisfaction of the agency that it has made appropriate efforts to collect or post the required margin. Section 349.7 generally requires a covered swap entity to ensure that any initial margin collateral that it collects or posts is held at a third-party custodian. Section 349.7(c) requires the custodian to act pursuant to a custody agreement that: (1) Prohibits the custodian from rehypothecating, repledging, reusing, or otherwise transferring (through securities lending, securities borrowing, repurchase agreement, reverse repurchase agreement or other means) the collateral held by the custodian, except that cash collateral may be held in a general deposit account with the custodian if the funds in the account are used to purchase an asset held in compliance with § 349.7, and such purchase takes place within a time period reasonably necessary to consummate such purchase after the cash collateral is posted as initial margin and (2) is a legal, valid, binding, and enforceable agreement under the laws of all relevant jurisdictions, including in the event of bankruptcy, insolvency, or a similar proceeding. A custody agreement may permit the posting party to substitute or direct any reinvestment of posted collateral held by the custodian under certain conditions. With respect to collateral collected by a covered swap entity pursuant to § 349.3(a) or posted by a covered swap entity pursuant to § 349.3(b), the agreement must require the posting party to substitute only funds or other property that would qualify as eligible collateral under § 349.6 and for which the amount net of applicable discounts described in Appendix B would be sufficient to meet the requirements of § 349.3 and direct reinvestment of funds only in assets that would qualify as eligible collateral under § 349.6. Section 349.8 establishes standards for the use of initial margin models. These standards include: (1) A requirement that the covered swap entity receive prior approval from the relevant Agency based on demonstration that the initial margin model meets specific requirements (§§ 349.8(c)(1) and 349.8(c)(2)); (2) a requirement that a covered swap entity notify the relevant Agency in writing 60 days before extending use of the model to additional product types, making certain changes to the initial margin model, or making material changes to modeling assumptions (§ 349.8(c)(3)); and (3) a variety of quantitative requirements, including requirements that the covered swap entity validate and demonstrate the reasonableness of its process for modeling and measuring hedging benefits, demonstrate to the satisfaction of the relevant Agency that the omission of any risk factor from the calculation of its initial margin is appropriate, demonstrate to the satisfaction of the relevant Agency that incorporation of any proxy or approximation used to capture the risks of the covered swap entity's non-cleared swaps or noncleared security-based swaps is appropriate, periodically review and, as necessary, revise the data used to calibrate the initial margin model to ensure that the data incorporate an appropriate period of significant financial stress (§§ 349.8(d)(5), 349.8(d)(10), 349.8(d)(11), 349.8(d)(12), and 349.8(d)(13)). Also, if the validation process reveals any material problems with the initial margin model, the covered swap entity must promptly notify the Agency of the problems, describe to the Agency any remedial actions being taken, and adjust the initial margin model to ensure an appropriately conservative amount of required initial margin is being calculated (§ 349.8(f)(3)). Section 349.8 also establishes requirements for the ongoing review and documentation of initial margin models. These standards include: (1) A requirement that a covered swap entity review its initial margin model annually (§ 349.8(e)); (2) a requirement that the covered swap entity validate its initial margin model at the outset and on an ongoing basis, describe to the relevant Agency any remedial actions being taken, and report internal audit findings regarding the effectiveness of the initial margin model to the covered swap entity's board of directors or a committee thereof (§§ 349.8(f)(2), 349.8(f)(3), and 349.8(f)(4)); (3) a requirement that the covered swap entity adequately document all material aspects of its initial margin model (§ 349.8(g)); and (4) that the covered swap entity must adequately document internal authorization procedures, including escalation procedures, that require review and approval of any change to the initial margin calculation under the initial margin model, demonstrable analysis that any basis for any such change is consistent with the requirements of this section, and independent review of such demonstrable analysis and approval (§ 349.8(h)). Section 349.9 addresses the treatment of cross-border transactions and, in certain limited situations, will permit a covered swap entity to comply with a foreign regulatory framework for noncleared swaps (as a substitute for compliance with the prudential regulators' rule) if the prudential regulators jointly determine that the foreign regulatory framework is comparable to the requirements in the prudential regulators' rule. Section 349.9(e) allows a covered swap entity to request that the prudential regulators make a substituted compliance determination and must provide the reasons therefore and other required supporting documentation. A request for a substituted compliance determination must include: (1) A description of the scope and objectives of the foreign regulatory framework for non-cleared swaps and non-cleared security-based swaps; (2) the specific provisions of the foreign regulatory framework for non-cleared swaps and security-based swaps (scope of transactions covered; determination of the amount of initial and variation margin required; timing of margin requirements; documentation requirements; forms of eligible collateral; segregation and rehypothecation requirements; and approval process and standards for models); (3) the supervisory compliance program and enforcement authority exercised by a foreign financial regulatory authority or authorities in such system to support its oversight of the application of the non-cleared swap and security-based swap regulatory framework; and (4) any other descriptions and documentation that the prudential regulators determine are appropriate. A covered swap entity may make a request under this section only if directly supervised by the authorities administering the foreign regulatory framework for non-cleared swaps and non-cleared security-based swaps. Section 349.10 requires a covered swap entity to execute trading documentation with each counterparty that is either a swap entity or financial end user regarding credit support arrangements that: (1) Provides the contractual right to collect and post initial margin and variation margin in such amounts, in such form, and under such circumstances as are required and (2) specifies the methods, procedures, rules, and inputs for determining the value of each non-cleared swap or noncleared security-based swap for purposes of calculating variation margin requirements and the procedures for resolving any disputes concerning valuation. Section 349.11(b)(1) provides that the requirement for a covered swap entity to post initial margin under § 349.3(b) does not apply with respect to any noncleared swap or non-cleared security based swap with a counterparty that is an affiliate. A covered swap entity shall calculate the amount of initial margin that would be required to be posted to an affiliate that is a financial end user with material swaps exposure pursuant to § 349.3(b) and provide documentation of such amount to each affiliate on a daily basis.

There is no change in the method or substance of the collection. The FDIC currently does not supervise any institutions that are subject to this information collection but is reporting one respondent as a placeholder to preserve the burden estimates. For clarity, the burden presentation has been changed to correspond to the burden presentation made by the other agencies in their respective information collections. There is no change in the total estimated annual burden.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on October 23, 2019.

Annmarie H. Boyd,

Assistant Executive Secretary.

[FR Doc. 2019–23527 Filed 10–28–19; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Federal Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th and Constitution Avenue NW, Washington, DC 20551–0001, not later than November 7, 2019.

A. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Ferne S. Frosch, Huntsville, Texas;* to retain voting shares of First National Bancshares of Huntsville, Inc. and thereby indirectly retain voting shares of First National Bank of Huntsville, both of Huntsville, Texas. In addition, The Wilbourne T. Robinson Family Trust No. 1, Huntsville, Texas, Ferne S. Frosch, Huntsville, Texas, Frances R. Snipes, Houston, Texas, and Florine R. Klussmann, Katy, Texas, as co-trustees; The Wilbourne T. Robinson Family Trust No. 2, Ferne S. Frosch, Frances R. Snipes, and Florine R. Klussmann, as co-trustees; The J. Philip Gibbs Trust No. 2, Huntsville, Texas, Ferne S. Frosch, trustee; Wayne B. Frosch; Walter M. Woodward, Jr.; and Clyde Michael Williams, all of Huntsville, Texas; Janet Smyth and Mary K. Basquin, both of New York, New York; Virginia S. Low, London, N1; Elizabeth H. Hawley, Dallas, Texas; and a minor child; to be approved as members acting in concert with the Smyth Gibbs Aker Group to retain voting shares of First National Bancshares of Huntsville, Inc. and thereby retain voting shares of First National Bank of Huntsville.

Board of Governors of the Federal Reserve System, October 23, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–23531 Filed 10–28–19; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10708]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by December 30, 2019.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10708 Proposed Repetitive, Scheduled Non-Emergent Ambulance Transport (RSNAT) Prior Authorization Process and Requirements for a Potential National Model

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Proposed Repetitive, Scheduled Non-Emergent Ambulance Transport (RSNAT) Prior Authorization Process and Requirements for a Potential National Model; *Use:* CMS is pursuing approval to potentially expand the RSNAT Prior Authorization Model nationally if the Secretary determines that the expansion criteria are met. The potential national model would follow the same design as the current RSNAT Prior Authorization Model, as described in the September 16, 2019, **Federal Register** (84 FR 48620) and may be implemented in multiple phases. If such a national model moves forward, the information that would be required under this collection would be used to determine proper payment for repetitive, scheduled non-emergent ambulance transports. The information required in a prior authorization request package would include all medical documents and information to show that the number and level of transports requested are reasonable and necessary for the beneficiary and meet other Medicare requirements. If an ambulance supplier does not submit a prior authorization request by the fourth round trip in a 30-day period, and the claim is submitted to the Medicare Administrator Contractor (MAC) for payment, then the claim would be stopped for prepayment review and medical documentation will be requested.

Trained nurse reviewers from the MAC would review the information from the ambulance supplier to determine if the beneficiary meets Medicare's requirements for the transport and if the beneficiary needs the level of care requested. The MAC would also use the information to determine if the number of trips requested is reasonable and necessary. *Form Number:* CMS–10708 (OMB control number: 0938–NEW); *Frequency:* Occasionally; *Affected Public:* Private Sector (Business or other for-profits, Not-for-profit institutions); *Number of Respondents:* 1,745; *Number of Responses:* 216,941; *Total Annual Hours:* 113,706. (For questions regarding this collection contact Angela Gaston at 410–786–7409.)

Dated: October 24, 2019.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2019–23584 Filed 10–25–19; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–10631]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by December 30, 2019.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number ________, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10631 The PACE Organization Application Process in 42 CFR Part 460

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Revision with change of a currently approved collection; *Title of Information Collection:* The PACE Organization Application Process in 42 CFR part 460; *Use:* The Programs of All-Inclusive Care for the Elderly (PACE) consist of pre-paid, capitated plans that provide comprehensive health care services to frail, older adults in the community who are eligible for nursing home care according to State standards. PACE organizations (PO) must provide all Medicare and Medicaid covered services; financing of this model is accomplished through prospective capitation of both Medicare and Medicaid payments. Upon approval of a PACE application, CMS executes a 3-way program agreement with the applicant entity and the applicable State Administering Agency (SAA). CMS regulations at 42 CFR 460.98(b)(2) require a PO to provide PACE services in at least the PACE center, the home, and inpatient facilities. The PACE center is the focal point for the delivery of PACE services; the center is where the interdisciplinary team (IDT) is located, services are provided, and socialization occurs with staff that is consistent and familiar to participants.

Collection of this information is mandated by statute under sections 1894(f) and 1934(f) of the Act and at 42 CFR part 460, subpart B, which addresses the PO application and waiver process. In general, PACE services are provided through a PO. An entity wishing to become a PO must submit an application to CMS that describes how the entity meets all the requirements in the PACE program. An entity's application must be accompanied by an assurance from the SAA of the State in which the PO is located.

CMS recently issued a final PACE rule (CMS–4168–F), effective August 2, 2019, which updates and modernizes the PACE program. This final rule codifies CMS' existing practice of relying on automated review systems for processing initial applications to become a PACE organization and expansion applications for existing PACE organizations. In addition, the final rule will modify the PACE regulations to eliminate the need for PACE organizations to request waivers for a number of the most commonly waived provisions. This latter change is expected to reduce burden and improve efficiency for POs, state administering agencies, and CMS.

In addition to codifying the current automated processes for the submission and review of both initial and service area expansion applications, this rule modifies existing regulatory provisions and requirements. As a result, certain attestations associated with the application are no longer applicable, and others need to be updated to reflect updated regulatory requirements. We are also making minor tweaks to certain document upload requirements for clarification purposes based on experience reviewing applications. *Form Number:* CMS–10631 (OMB control number: 0938–1326); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 72; *Total Annual Responses:* 109; *Total Annual Hours:*

7,226. (For policy questions regarding this collection contact Debbie Vanhoven at 410–786–6625.)

Dated: October 24, 2019.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2019–23572 Filed 10–28–19; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–D–4258]

Type V Drug Master Files for Center for Drug Evaluation and Research-Led Combination Products Using Device Constituent Parts With Electronics or Software; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Type V DMFs for CDER-Led Combination Products Using Device Constituent Parts With Electronics or Software.'' A drug master file (DMF) is a voluntary submission to FDA that may be used to provide confidential detailed information about facilities, processes, or articles used in the manufacturing, processing, packaging, and storing of one or more human drugs. This draft guidance explains when a Type V DMF may be used to submit information regarding a combination product for which the Center for Drug Evaluation and Research (CDER) has primary jurisdiction (*i.e.,* a CDER-led combination product) and which features a device constituent part with electronics and/or software that is planned to be used as a platform, that is, may be used in multiple CDER-led combination products. The draft guidance also describes the administrative process and outlines the recommended content for these Type V DMF submissions and amendments.

DATES: Submit either electronic or written comments on the draft guidance by December 30, 2019 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–D–4258 for ''Type V DMFs for CDER-Led Combination Products Using Device Constituent Parts With Electronics or Software.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Kimberly Peters, Center for Drug Evaluation and Research, Food and Drug Administration, Bldg. 51, Rm. 4314, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–6350.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Type V DMFs for CDER-Led Combination Products Using Device

Constituent Parts With Electronics or Software.'' Some CDER-led combination products feature a device constituent part with electronics and/or software that may be used as a platform across multiple products. An application for such a combination product may necessitate review by multiple centers, offices, and divisions within FDA. In addition, because the device constituent part may be used as a platform in multiple CDER-led combination products, the same device information may be applicable to and used to support multiple CDER submissions. For such combination products, a Type V DMF can be an efficient mechanism to provide information regarding the device constituent part when the same information is applicable to several CDER applications, and additional measures to ensure consistency are needed.

Further, because of rapid advances in technology, the device constituent part of these types of combination products could be modified frequently. Knowledge of these modifications is important in determining whether they have any impact on the safety and effectiveness of the combination product or its indications for use. Amendments to the Type V DMF provide a regulatory pathway for the DMF holder to report device modifications and for FDA to be notified of and to review device modifications.

Once FDA reviews the Type V DMF device information for one CDER application, its review may be applicable to other CDER applications if the device information remains unchanged and is pertinent to products in other CDER applications that also incorporate the DMF by reference. FDA's ability to use previously completed scientific reviews for a DMF can contribute to an efficient FDA review process and help ensure consistency across CDER applications referencing the same information.

This draft guidance applies to Type V DMF submissions as described above for CDER-led combination products. Specifically, the information in this draft guidance may be appropriate for device constituent parts with electronics and/or software that meet the statutory definition of a device and perform functions such as the following:

- Facilitate drug delivery in a manner that may include patient input or analysis (*e.g.,* an electromechanically driven pen injector with software that allows input of patient or dosing information or that analyzes dosing or device use information).
- Provide information that is used in making a decision regarding treatment, therapy, or drug delivery.
- Interface with other devices or systems to provide patient use or other information to the user or health care provider (*e.g.,* physiological parameters).
- Control or drive the features of the user interface.

This draft guidance addresses process and general content expectations for Type V DMFs for such device constituent parts. It does not address FDA premarket review standards or expectations for such constituent parts or the combination products that include them. This draft guidance is also not intended to suggest that a Type V DMF should be submitted to CDER if the sponsor has rights of reference to a device master file located in another center containing the same information.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Type V DMFs for CDER-Led Combination Products Using Device Constituent Parts With Electronics or Software.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR 314.420 have been approved under OMB control number 0910–0001.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *https://www.regulations.gov*.

Dated: October 22, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–23585 Filed 10–28–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Nurse Anesthetist Traineeship (NAT) Program Specific Data Forms, OMB Control No. 0915–0374—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR have been provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than November 29, 2019.

ADDRESSES: Submit your comments, including the ICR Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Nurse Anesthetist Traineeship (NAT) Program Specific Data Forms, OMB Control No. 0915–0374—Revision.

Abstract: HRSA provides advanced education nursing training grants to educational institutions to increase the numbers of Certified Registered Nurse Anesthetists through the NAT Program. The NAT Program is authorized by Section 811 of the Public Health Service (PHS) Act (42 U.S.C. 296j). The NAT Tables request information on program participants such as the number of enrollees/trainees, number of enrollees/trainees supported, number of graduates, number of graduates supported, number of projected enrollees/trainees, degree program (Master's and Doctoral), and the distribution of Nurse Anesthetists who practice in underserved, rural, and/or public health practice settings.

Need and Proposed Use of the Information: Funds appropriated for the NAT Program are distributed among eligible institutions based on a formula, as permitted by PHS Act section 806(e)(1). HRSA uses the data from the NAT Tables to determine if the Funding Factors (either the Statutory Funding Preference or Special Consideration) are met, determine the award amount, ensure compliance with programmatic and grant requirements, and provide information to the public and Congress. The NAT Tables currently collect one year of data, which allows HRSA to calculate award amounts for a single-year project period. For fiscal year 2020, HRSA is revising the forms that previously collected one year of data on prospective students to capture three years of data, thereby allowing HRSA to calculate award amounts for a multi-year project period. Table 1 will add columns to collect Year 2 and Year 3 data for the number of prospective students. While Table 2 data collection elements will not change, the header will change to provide further clarification about the data being collected.

Likely Respondents: Respondents will be applicants to HRSA's NAT Program.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Table 1—NAT: Enrollment, Traineeship Support, Graduate, Graduates Supported and Projected Data	100	1	100	3.5	350
Table 2—NAT: Graduate Data—Rural, Underserved, or Public Health	100	1	100	2.8	280
Total	* 100		100		630

* The same respondents are completing Tables 1 and Table 2.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2019–23564 Filed 10–28–19; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; Conference Support (R13) Review.

Date: November 19, 2019.

Time: 12:30 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: John P. Holden, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Boulevard, Suite 920, Bethesda, MD 20892, (301) 496–8775, *john.holden@nih.gov.*

Dated: October 23, 2019.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–23553 Filed 10–28–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement

[OMB Control Number 1653–0042]

Agency Information Collection Activities: Extension of a Currently Approved Collection: Obligor Change of Address

AGENCY: U.S. Immigration and Customs Enforcement, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: In accordance with the Paperwork Reductions Act (PRA) of 1995 the Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE) will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance. This information collection was previously published in the **Federal Register** on July 24, 2019, allowing for a 60-day comment period. ICE received no comments in connection with the 60-day notice. Based on better estimates, ICE is making an adjustment from the 60-day notice to reflect a decrease in the number of respondents. The purpose of this notice

is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until November 29, 2019.

ADDRESSES: Interested persons are invited to submit written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for U.S. Immigration and Customs Enforcement, Department of Homeland Security, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov* or faxed to (202) 395–5806. All submissions must include the words ''Department of Homeland Security'' and the OMB Control Number 1653–0042.

SUPPLEMENTARY INFORMATION:

Comments

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Obligor Change of Address.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* I–333; ICE.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individual or Households, Business or other nonprofit. The data collected on this form is used by ICE to ensure accuracy in correspondence between ICE and the obligor. The form serves the purpose of standardizing obligor notification of any changes in their address and will facilitate communication with the obligor.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 2,000 responses at 15 minutes (.25 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 500 annual burden hours.

Dated: October 24, 2019.

Scott Elmore,

PRA Clearance Officer.

[FR Doc. 2019–23573 Filed 10–28–19; 8:45 am]

BILLING CODE 9111–28–P

INTER-AMERICAN FOUNDATION

Sunshine Act Meetings

TIME AND DATE: November 4, 2019, 1:00 p.m.–5:00 p.m.

PLACE: Nelson Mullins Riley & Scarborough, 101 Constitution Ave. NW, #900, Washington, DC 20001.

STATUS: Meeting of the Board of Directors and Advisory Council, open to the public, portion closed to the public.

MATTERS TO BE CONSIDERED:

- Approval of Past Meeting Minutes
- Welcome and President's Report
- 50th Anniversary
- Management Report
- New Business
- Adjournment

PORTION TO BE CLOSED TO THE PUBLIC:

- Executive session closed to the public as provided for by 22 CFR 1004.4(b) & (f)

CONTACT PERSON FOR MORE INFORMATION: Nicole Stinson, Acting General Counsel, (202) 683–7117.

Nicole Stinson,

Acting General Counsel.

[FR Doc. 2019–23719 Filed 10–25–19; 4:15 pm]

BILLING CODE 7025–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[190A2100DD/AAKC001030/ A0A501010.999900 253G]

Johnson-O'Malley Program; Preliminary Report

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of comment period.

SUMMARY: As required by the Johnson-O'Malley (JOM) Act of 1934, as amended by the JOM Supplemental Indian Education Program Modernization Act, the Bureau of Indian Education (BIE) is publishing a Preliminary Report that describes the number of eligible Indian students served or potentially served by each eligible entity, using the most applicable and accurate data from the fiscal year proceeding the fiscal year for which the initial determination is to be made. BIE is also seeking written comments from eligible entities to gain feedback about the preliminary report.

DATES: Comments must be received on or before December 30, 2019.

ADDRESSES: Send comments by email to *JOMcomments@bie.edu* or by mail to Bureau of Indian Education, ATTN: JOM Comments, C/O Maureen Lesky, Program Manager, 1011 Indian School Road NW, Suite 332, Albuquerque, NM 87104.

FOR FURTHER INFORMATION CONTACT: Ms. Angela Barnett, JOM Program Specialist, Bureau of Indian Education, telephone: (405) 605–6051, email: *JOMcomments@bie.edu.*

SUPPLEMENTARY INFORMATION: The JOM Act of 1934 was passed to subsidize education, medical services, and other social services provided to Indians living within the borders of States and territories. Today, JOM funding is used to support programs designed to meet the specialized and unique educational and cultural needs of eligible Indian students, including programs that supplement existing school programming operational supports.

The JOM Supplemental Indian Education Program Modernization Act of 2018, Public Law 115–404, directs the Secretary of the Interior (Secretary) to publish a preliminary report describing the number of eligible Indian students served or potentially served by each eligible entity, using the most applicable and accurate data from the fiscal year proceeding the fiscal year for which the initial determination is to be made from the:

1. Bureau of the Census;

2. National Center for Education Statistics; or

3. Office of Indian Education of the Department of Education.

The preliminary report and additional information are at the BIE JOM web page at: *https://www.bie.edu/JOM/.* The BIE seeks feedback about the preliminary report from eligible entities. BIE will then consider the feedback in preparing the final report.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: September 26, 2019.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2019–23617 Filed 10–28–19; 8:45 am]

BILLING CODE 4337–15–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–631 and 731–TA–1463–1464 (Preliminary)]

Forged Steel Fittings From India and Korea; Institution of Anti-Dumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigation Nos. 701–TA–631 and 731–TA–1463–1464 (Preliminary) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of forged steel fittings from India and Korea, provided for in subheading 7307.92.30, 7307.92.90, 7307.93.30, 7307.93.60, 7307.93.90, 7307.99.10, 7307.99.30, and 7307.99.50 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Government of India. Unless the Department of Commerce (''Commerce'') extends the time for initiation, the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by December 9, 2019. The Commission's views must be transmitted to Commerce within five business days thereafter, or by December 16, 2019.

DATES: October 23, 2019.

FOR FURTHER INFORMATION CONTACT: Christopher Watson (202.205.2684), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), in response to a petition filed on October 23, 2019, by Bonney Forge Corporation (''Bonney''), Mount Union, Pennsylvania and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (''USW''), Pittsburgh, Pennsylvania (collectively ''Petitioners'').

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on Wednesday, November 13, 2019, at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC. Requests to appear at the conference should be emailed to *preliminaryconferences@usitc.gov* (DO NOT FILE ON EDIS) on or before November 8, 2019. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before November 18, 2019, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://*

www.usitc.gov/documents/handbook_on_filing_procedures.pdf, elaborates upon the Commission's procedures with respect to filings.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these investigations must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that any information that it submits to the Commission during these investigations may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of these or related investigations or reviews, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: October 23, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–23558 Filed 10–28–19; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Smart Thermostats, Smart HVAC Systems, and Components Thereof, DN 3418;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of EcoFactor, Inc. on October 23, 2019. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain smart thermostats, smart HVAC systems, and components thereof. The complaint names as respondents: Ecobee Ltd. of Canada; Ecobee, Inc. of Canada; Google LLC of Mountain View, CA; Alarm.com Incorporated of Tysons, VA; Alarm.com Holdings, Inc. of Tysons, VA; Daikin Industries, Ltd. of Japan; Daikin America, Inc. of Orangeburg, NY; Daikin North America LLC of Houston, TX; Schneider Electric USA, Inc. of Andover, MA; Schneider Electric SE of France; and Vivint, Inc. of Provo, UT. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3418'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: October 23, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–23557 Filed 10–28–19; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–501]

Textile and Apparel Imports From China: Statistical Reports

AGENCY: United States International Trade Commission.

ACTION: Notice of change in statistical report format and publication frequency.

SUMMARY: Following receipt of a request on October 3, 2019, from the Committee on Ways and Means of the U.S. House of Representatives (Committee) under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), the U.S. International Trade Commission (Commission) has changed the format and publication frequency of the statistical reports it provides under Investigation No. 332–501, *Textile and Apparel Imports from China: Statistical Reports.* The Commission will discontinue the current biweekly reports and annual compilations and will instead provide quarterly reports.

DATES:

October 23, 2019: Effective date of change in report format and publication frequency.

November 27, 2019: Publication of first quarterly statistical report.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW, Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Information specific to this investigation may be obtained from Laura Thayn, Project Leader, Office of Analysis and Research Services (202–205–1852 or *laura.thayn@usitc.gov*). For information on the legal aspects of these investigations, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Background: In its original request letter received on October 14, 2008, the Committee requested that the Commission provide statistical reports every 2 weeks on the volume, value, unit value, and import market share of certain textile and apparel imports from China, based on preliminary Customs data and final Census data. The Committee asked that the Commission compile these data for each product covered by a Memorandum of Understanding between the United States and China, set to expire December 31, 2008, at both the three-digit textile/apparel category level and at the 10-digit Harmonized Tariff Schedule level for each product within each of the three-digit textile/apparel categories. The Committee also requested that the Commission publish a compilation of monthly Census data on an annual basis. The Committee asked that the Commission continue to provide these reports until such time that the Committee terminates or amends the request. As requested by the Committee, the Commission has published these reports on its website (with any confidential business information deleted).

Notice of the Commission's institution of this investigation was published in the **Federal Register** of November 5, 2008 (73 FR 65882); it is also posted at *https://www.govinfo.gov/content/pkg/FR-2008-11-05/pdf/E8-26362.pdf.*

Change in Report Format and Frequency: Through its October 3, 2019 letter, the Committee has now modified its request to ask that the Commission's statistical reports no longer include the preliminary Customs data and that the Commission, in future reports, (1) provide only the updated final Census data, (2) provide these reports on a quarterly basis, and (3) post them on the Commission's website. The Committee also stated that the Commission may discontinue publication of the annual reports because the data in these reports are already included in the statistical reports.

By order of the Commission.

Issued: October 23, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–23555 Filed 10–28–19; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1089]

Certain Memory Modules and Components Thereof; Notice of Request for Submissions on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the presiding administrative law judge (''ALJ'') has issued a recommended determination on remedy and bonding should a violation be found in the above-captioned investigation. The Commission is soliciting submissions on public interest issues raised by the recommended limited exclusion order against certain memory modules and components thereof, manufactured and imported by respondents SK hynix, Inc.; SK hynix America, Inc.; and SK hynix memory solutions, Inc. This notice is soliciting comments from the public only. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–5468. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that, if the Commission finds a violation, it shall exclude the articles concerned from the United States:

> unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1).

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the administrative law judge's recommended determination on remedy and bonding issued in this investigation on October 21, 2019. Comments should address whether issuance of the recommended limited exclusion order in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the recommended limited exclusion order are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended limited exclusion order;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the recommended limited exclusion order within a commercially reasonable time; and

(v) explain how the recommended limited exclusion order would impact consumers in the United States.

Written submissions must be filed no later than by close of business on November 25, 2019.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–1089'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[1] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: October 23, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–23556 Filed 10–28–19; 8:45 am]

BILLING CODE 7020–02–P

[1] All contract personnel will sign appropriate nondisclosure agreements.

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—UHD Alliance, Inc.

Notice is hereby given that, on October 15, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), UHD Alliance, Inc. (''UHD Alliance'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Westinghouse Electronics, Eastvale, CA has been added as a party to this venture.

In addition, HiSilicon Technologies Co., Ltd., Shenzhen, PEOPLE'S REPUBLIC OF CHINA; and Philips International B.V.–IP&S, Eindhoven, NETHERLANDS have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and UHD Alliance intends to file additional written notifications disclosing all changes in membership.

On June 17, 2015, UHD Alliance filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 17, 2015 (80 FR 42537).

The last notification was filed with the Department on July 22, 2019. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 9, 2019 (84 FR 39371).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit Antitrust Division.

[FR Doc. 2019–23608 Filed 10–28–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

[OMB Number 1117–0051]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Previously Approved Collection: DEA Leadership Engagement Survey

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Drug Enforcement Administration, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until December 30, 2019.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Chiwoniso S. Gurira, Senior Personnel Psychologist, Research and Analysis Staff, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

1. *Type of Information Collection:* Proposed collection.
2. *The Title of the Form/Collection:* DEA Leadership Engagement Survey.
3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Online survey.
4. *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public is Drug Enforcement Administration contractors and Task Force Officers. The Leadership Engagement Survey is an initiative mandated by Acting Administrator, DEA, to assess and improve competencies and proficiency of leadership across DEA.
5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 5000 respondents will complete the application in approximately 20 minutes.
6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 1,667 hours. It is estimated that applicants will take 20 minutes to complete the online survey. The burden hours for collecting respondent data sum to 1,667 hours (5,000 respondents × 20 minutes = 100,000 hours. 100,000/60 seconds = 1,667).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405B, Washington, DC 20530.

Dated: October 24, 2019.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2019–23576 Filed 10–28–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Trade Adjustment Assistance (TAA) Efforts To Improve Outcomes; Correction

ACTION: Notice; correction.

SUMMARY: The Department of Labor's (DOL's) Employment and Training Administration (ETA) published a document in the **Federal Register** of September 25, 2019, soliciting public comments on the Trade Adjustment Assistance (TAA) Efforts to Improve Outcomes Information Collection Request (84 FR 50475). The document contained an incorrect date by which written comments must be received.

FOR FURTHER INFORMATION CONTACT: Robert Hoekstra by telephone at 202–693–3522 (this is not a toll-free number), or by email at *hoekstra.robert@dol.gov.*

Correction

In the **Federal Register** of September 25, 2019, in FR Doc. 2019–20743 on page 50475 (84 FR 50475) in the second column, correct the **DATES** caption to read:

DATES: Consideration will be given to all written comments received by November 24, 2019.

Dated: October 15, 2019.

John Pallasch,

Assistant Secretary for Employment and Training.

[FR Doc. 2019–23622 Filed 10–25–19; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0042]

TUV Rheinland of North America, Inc.: Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of TUV Rheinland of North America, Inc. (TUVRNA) for expansion of recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before November 13, 2019.

ADDRESSES: Submit comments by any of the following methods:

Electronically: You may submit comments and attachments electronically at: *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2007–0042, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693–2350. Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA–2007–0042). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.*

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

Extension of comment period: Submit requests for an extension of the comment period on or before November 13, 2019 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor by phone (202) 693–1999 or email *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor by phone (202) 693–2110 or email *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice that TUVRNA is applying for expansion of the scope of recognition as a NRTL. TUVRNA requests the addition of one test standard to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes an application by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A, 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including TUVRNA, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

TUVRNA currently has nine facilities (sites) recognized by OSHA for product testing and certification, with its headquarters located at: TUV Rheinland of North America, Inc., 12 Commerce Road, Newtown, Connecticut 06470. A complete list of TUVRNA sites recognized by OSHA is available at *https://www.osha.gov/dts/otpca/nrtl/tuv.html.*

II. General Background on the Applications

TUVRNA submitted two applications, one dated March 30, 2016 (OSHA–2007–0042–0030) and another dated April 19, 2017 (OSHA–2007–0042–0031), to expand the scope of recognition to include the addition of four recognized testing and certification sites and the addition of two test standards to its scope of recognition. OSHA preliminarily determined that OSHA should grant the applications for expansion.

OSHA published a **Federal Register** notice (83 FR 3662), July 20, 2018 announcing these applications, but referenced one incorrect standard in the listing of appropriate test standards (UL 698A). OSHA further published a **Federal Register** notice (84 FR 26160 June 5, 2019) granting recognition for the four sites and the two additional standards requested in the application. This notice is being issued to correct an incorrect standard referenced in FRN (83 FR 36625) and to allow for public comment on the one remaining standard (UL 698A).

Table 1 lists the appropriate test standard found in TUVRNA's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARD FOR INCLUSION IN TUVRNA'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 698A ..	Standard for Industrial Control Panels Relating to Hazardous (Classified) Locations.

III. Preliminary Findings on the Application

TUVRNA submitted an acceptable application for expansion of scope of recognition. OSHA's review of the application file and pertinent documentation indicates that TUVRNA can meet the requirements prescribed by 29 CFR 1910.7 for expanding recognition to include the addition of this one test standard for NRTL testing and certification listed above. This preliminary finding does not constitute an interim or temporary approval of TUVRNA's application.

OSHA welcomes public comment as to whether TUVRNA meets the requirements of 29 CFR 1910.7 for expansion of recognition as a NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, at the above address. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2007–0042.

OSHA will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will make a recommendation to the Assistant Secretary for Occupational Safety and Health whether to grant TUVRNA's application for expansion of its scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of its final decision in the **Federal Register**.

IV. Authority and Signature

Loren Sweatt, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on October 23, 2019.

Loren Sweatt,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2019–23570 Filed 10–28–19; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council on the Arts and the Humanities

Arts and Artifacts Indemnity Panel Advisory Committee

AGENCY: Federal Council on the Arts and the Humanities; National Foundation on the Arts and the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, notice is hereby given that the Federal Council on the Arts and the Humanities will hold a meeting of the Arts and Artifacts International Indemnity Panel.

DATES: The meeting will be held on Thursday, November 14, 2019, from 12:00 p.m. to 5:00 p.m.

ADDRESSES: The meeting will be held by teleconference originating at the National Endowment for the Arts, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW, Room 4060, Washington, DC 20506, (202) 606–8322; *evoyatzis@neh.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the meeting is for panel review, discussion, evaluation, and recommendation on applications for Certificates of Indemnity submitted to the Federal Council on the Arts and the Humanities, for exhibitions beginning on or after January 1, 2020. Because the meeting will consider proprietary financial and commercial data provided in confidence by indemnity applicants, and material that is likely to disclose trade secrets or other privileged or confidential information, and because it is important to keep the values of objects to be indemnified and the methods of transportation and security measures confidential, I have determined that that the meeting will be closed to the public pursuant to subsection (c)(4) of section 552b of Title 5, United States Code. I have made this determination under the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 15, 2016.

Dated: October 24, 2019.

Elizabeth Voyatzis,

Committee Management Officer, Federal Council on the Arts and the Humanities & Deputy General Counsel, National Endowment for the Humanities.

[FR Doc. 2019–23589 Filed 10–28–19; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request; Grantee Reporting Requirements for Nanoscale Science and Engineering Centers (NSECs)

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to renew this collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting Office of Management and Budget (OMB) clearance of this collection for no longer than 3 years.

DATES: Written comments on this notice must be received by December 30, 2019 to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to address below.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Suite W18200, Alexandria, Virginia 22314; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: Grantee Reporting Requirements for Nanoscale Science and Engineering Centers (NSECs).

OMB Number: 3145–0229.

Expiration Date of Approval: December 31, 2019.

Type of Request: Intent to seek approval to renew an information collection.

Proposed Project: The Nanoscale Science and Engineering Centers (NSECs) Program supports innovation in the integrative conduct of research, education, and knowledge transfer. NSECs build intellectual and physical infrastructure within and between disciplines, weaving together knowledge creation, knowledge integration, and knowledge transfer. NSECs conduct world-class research through partnerships of academic institutions, national laboratories, industrial organizations, and/or other public/private entities. New knowledge thus created is meaningfully linked to society. NSECs enable and foster excellent education, integrate research and education, and create bonds between learning and inquiry so that discovery and creativity more fully support the learning process. NSECs capitalize on diversity through participation in center activities and demonstrate leadership in the involvement of groups underrepresented in science and engineering.

NSECs will be required to submit annual reports on progress and plans, which will be used as a basis for performance review and determining the level of continued funding. To support this review and the management of a Center, NSECs will be required to develop a set of management and performance indicators for submission annually to NSF via the Research Performance Project Reporting module in *Research.gov* and an external technical assistance contractor that collects programmatic data electronically. These indicators are both quantitative and descriptive and may include, for example, the characteristics of center personnel and students; sources of financial support and in-kind support; expenditures by operational component; characteristics of industrial and/or other sector participation; research activities; education activities; knowledge transfer activities; patents, licenses; publications; degrees granted to students involved in Center activities; descriptions of significant advances and other outcomes of the NSEC effort. Such reporting requirements will be included in the cooperative agreement which is binding between the academic institution and the NSF.

Each Center's annual report will address the following categories of activities: (1) Research, (2) education, (3) knowledge transfer, (4) partnerships, (5) diversity, (6) management and (7) budget issues.

For each of the categories the report will describe overall objectives for the year, problems the Center has encountered in making progress towards goals, anticipated problems in the following year, and specific outputs and outcomes.

NSECs are required to file a final report through the RPPR and external technical assistance contractor. Final reports contain similar information and metrics as annual reports, but are retrospective.

Use of the Information: NSF will use the information to continue funding of the Centers, and to evaluate the progress of the program.

Estimate of Burden: 200 hours per center for thirteen centers for a total of 2,600 hours.

Respondents: Non-profit institutions.

Estimated Number of Responses per Report: One from each of the thirteen NSECs.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: October 24, 2019.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2019–23571 Filed 10–28–19; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of October 28, November 4, 11, 18, 25, December 2, 2019.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of October 28, 2019

Tuesday, October 29, 2019

10:00 a.m. Transformation at the NRC—Becoming a Modern, Risk-Informed Regulator (Public Meeting); (Contact: Alysia Bone: 301–415–1034).

Week of November 4, 2019—Tentative

There are no meetings scheduled for the week of November 4, 2019.

Week of November 11, 2019—Tentative

There are no meetings scheduled for the week of November 11, 2019.

Week of November 18, 2019—Tentative

There are no meetings scheduled for the week of November 18, 2019.

Week of November 25, 2019—Tentative

There are no meetings scheduled for the week of November 25, 2019.

Week of December 2, 2019—Tentative

There are no meetings scheduled for the week of December 2, 2019.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.* The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically.

If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or by email at *Tyesha.Bush@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated at Rockville, Maryland, this 25th day of October 2019.

For the Nuclear Regulatory Commission.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2019–23674 Filed 10–25–19; 11:15 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2020–15 and CP2020–14]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 31, 2019.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2020–15 and CP2020–14; *Filing Title:* USPS Request to Add Priority Mail Contract 556 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 23, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Curtis E. Kidd; *Comments Due:* October 31, 2019.

This Notice will be published in the **Federal Register**.

Darcie S. Tokioka,

Acting Secretary.

[FR Doc. 2019–23565 Filed 10–28–19; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* October 29, 2019.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 23, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 556 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–15, CP2020–14.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–23536 Filed 10–28–19; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Mailing Cremated Remains

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service is amending *Hazardous, Restricted, and Perishable Mail,* Publication 52, in various sections to require markings on mailpieces containing cremated remains, to eliminate the use of USPS-produced Priority Mail Express® labels for domestic shipments, and to limit the use of additional mailing services.

DATES: *Date of publication in the Postal Bulletin:* November 7, 2019.

FOR FURTHER INFORMATION CONTACT: Karen F. Key at (202) 268–7492 or Garry Rodriguez at (202) 268–7281.

SUPPLEMENTARY INFORMATION: The Postal Service published a notice of prospective revision of standards; invitation to comment on September 17, 2019, (84 FR 48959–48960) to:

1. Require the use of Label 139, *Cremated Remains,* on all domestic or international mailpieces containing cremated remains.

2. Eliminate the use of Labels 11–B, 11–F, and 11–HFPU, for domestic shipments containing cremated remains.

3. Limit the additional mailing services for mailpieces containing cremated remains to insurance and return receipt.

The Postal Service did not receive any comments to this notice of prospective revision of standards.

To increase the visibility of mailpieces containing cremated remains to postal employees and to ensure those mailpieces are more secure for processing and timely delivery, the Postal Service is requiring the use of Label 139 to be affixed to each side (including top and bottom) of a Priority Mail Express or Priority Mail Express International mailpiece containing cremated remains (USPS-produced or customer supplied). As an alternative, the Postal Service is introducing a special Priority Mail Express cremated remains branded box (BOX–CRE) that may be used for domestic or international shipments of cremated remains. The new Priority Mail Express cremated remains branded box will be available as part of a kit that will be offered in two versions. One kit will contain the box and a roll of tape. The other kit will include the box, a self-sealing plastic bag, bubble wrap, tape, and Publication 139, *How to Package and Ship Cremated Remains.* Both kits can be ordered online at the Postal Store on USPS.com®.

To improve service, the Postal Service is providing an option for retail customers to present a mailpiece containing cremated remains at a Post Office® location and have a shipping label printed and affixed. Customers will continue to have the option to use a single-ply Priority Mail Express label generated through Click-N-Ship or other USPS-approved method. If customers generate a single-ply label, the Postal Service is requiring an Intelligent Mail® package barcode (IMpb®) shipping label with the appropriate service type code and banner text above the barcode (see Publication 199) used for cremated remains domestic shipments. The shipping services file must include the appropriate cremated remains three-digit Extra Service Code for domestic and international shipments (see Publication 199). The use of a Priority Mail Express Label 11–B, 11–F, and 11–HFPU, will no longer be accepted for cremated remains domestic shipments.

As a result of improving service with the new shipping label requirements, the Postal Service is limiting the extra services available when mailing cremated remains to additional insurance and return receipt, and is eliminating the option to use Hold For Pickup service. Customers will continue to have the option to request a signature.

The specific revisions to Publication 52, *Hazardous, Restricted, and Perishable Mail* referenced in this notice will be published in *Postal Bulletin* 22532 on November 7, 2019, and can be viewed at *http://about.usps.com/postal-bulletin.* These revisions are expected to be incorporated into Publication 52 within the next few weeks. Publication 52 is provided in its entirety on Postal Explorer® at *pe.usps.com.*

In addition, the Postal Service will update *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®) and International Mail Manual (IMM®), and Publication 139, *How to Package and Ship Cremated Remains,* under separate cover.

These revisions will enable the Postal Service to provide an improved customer experience from sender to receiver.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87387; File No. SR–OCC–2019–010]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Related to Proposed Changes to the Options Clearing Corporation's Rules, Margin Policy, Margin Methodology, Clearing Fund Methodology Policy, and Clearing Fund and Stress Testing Methodology To Address Specific Wrong-Way Risk

October 23, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 10, 2019, the Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change is filed in connection with proposed enhancements to OCC's Rules, margin policy and methodology, Clearing Fund policy, and Clearing Fund and stress testing methodology to adopt new margin charges and other risk measures to address the specific wrong-way risk presented by certain cleared positions.

The proposed amendments to OCC's Rules are included in Exhibit 5A of the filing.[3] The proposed amendments to OCC's Margin Policy and Margins Methodology are included in Exhibits 5B and 5C, respectively. The proposed amendments to OCC's Clearing Fund Methodology Policy (''CFM Policy'') and Stress Testing and Clearing Fund Methodology Description (''Methodology Description'') are included in Exhibits 5D and 5E, respectively. Material proposed to be added to the Rules, Margin Policy and Margins Methodology as currently in effect is marked by underlining, and material proposed to be deleted is marked in strikethrough text; however, the proposed Specific Wrong-Way Risk Add-On chapter of the Margins Methodology is presented without marking to improve readability as the entire chapter is newly proposed rule text.[4] Material proposed to be added to the CFM Policy and Methodology Description is marked by double underlining, and material proposed to be deleted is marked in double strikethrough text.[5] The proposed changes are described in detail in Item II below.

The proposed rule change is available on OCC's website at *https://www.theocc.com/about/publications/bylaws.jsp.* All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.[6]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission notes that exhibits referenced herein are included in the filing submitted by OCC to the Commission, but are not included in this Notice.

[4] OCC also has filed an advance notice with the Commission in connection with the proposed changes. *See* SR–OCC–2019–807.

[5] OCC also filed with the Commission proposed rule change and advance notice filings concerning enhancements to its CFM Policy and Methodology Description, which are currently pending Commission review. *See* SR–OCC–2019–009 and SR–OCC–2019–806. OCC has marked proposed changes to the CFM Policy and Methodology Description described herein in double marking to clearly differentiate those changes from other changes currently pending Commission review.

[6] OCC's By-Laws and Rules can be found on OCC's public website: *http://optionsclearing.com/about/publications/bylaws.jsp.*

may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

A. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

As a central counterparty (''CCP''), OCC is exposed to wrong-way risk, which is the risk that arises when exposure to a counterparty is adversely correlated with the credit quality and probability of default of that counterparty. Specific wrong-way risk (''SWWR'') arises when an exposure to a participant is highly likely to increase when the creditworthiness of that participant is deteriorating.[7] For example, SWWR arises where a Clearing Member's cleared positions contain equity securities issued by the Clearing Member or its affiliates (*i.e.,* the Clearing Member Group) (such positions referred to herein as ''SWWR Equity positions'') as the equity issued by the Clearing Member Group may be assumed to have a price at or near zero in a default or bankruptcy scenario, and those positions (*e.g.,* equity used as a hedge, stock loans, options on equity, single-stock futures) may experience substantial losses. In addition, SWWR may arise where uncollateralized exchange-traded notes (''ETNs'') issued by a Clearing Member or its affiliates (''SWWR ETN positions'') are part of the Clearing Member's cleared positions (these positions, collectively with ''SWWR Equity positions,'' are hereinafter referred to as ''SWWR positions''). SWWR may also arise when a Clearing Member posts equity securities or ETNs issued by it or of its affiliates as margin collateral.

OCC currently accounts for SWWR as it relates to margin collateral by generally prohibiting a Clearing Member from pledging equities issued by it or one of its affiliates as margin collateral unless this pledge provides a hedge against a cleared position in the same account.[8] OCC does not, however, currently account for SWWR as it relates to cleared positions. As a result, OCC is proposing a new ''add-on'' charge[9] for its margin methodology, the System for Theoretical Analysis and Numerical Simulations (''STANS''),[10] and new stress test scenarios that may result in intra-day margin calls and, in more extreme cases, intra-month increases in the size of OCC's Clearing Fund[11] to address the wrong-way risk of OCC's cleared positions involving Clearing Member-issued securities. In addition, OCC proposes to introduce certain restrictions on stock lending activity related to SWWR positions.

Proposed Changes

OCC proposes to enhance its management of SWWR by: (1) Imposing certain restrictions on stock lending activity at OCC; (2) adopting a new SWWR margin add-on for STANS (''SWWR Add-on''); (3) introducing new stress test scenarios to capture the SWWR of cleared positions involving Clearing Member-issued ETNs beyond certain pre-defined thresholds; and (4) making other clarifying and conforming changes to the CFM Policy and Methodology Description. The proposed changes are intended to address the credit risks arising from SWWR positions at OCC. The proposed changes are described in detail below.

1. Prohibition on Lending Clearing Member/Affiliate-Issued Securities

OCC operates two programs for stock loan transactions: (1) The Stock Loan/Hedge Program and (2) the Market Loan Program (collectively, the ''Stock Loan Programs''). In the Stock Loan/Hedge Program, prospective Lending and Borrowing Clearing Members identify each other (independent of OCC), agree to bilaterally negotiated terms of the stock loan (in this case, a ''Hedge Loan''), and then send the details of the stock loan to the Depository Trust Company (''DTC'') designating the stock loan as a Hedge Loan for guaranty and clearance at OCC. The Lending Clearing Member then instructs DTC to transfer a specified number of shares of Eligible Stock[12] to the account of the Borrowing Clearing Member, and the Borrowing Clearing Member instructs DTC to transfer the appropriate amount of cash collateral to the account of the Lending Clearing Member. In the Market Loan Program, stock loans are initiated through the matching of bids and offers that are either agreed upon by the Market Loan Clearing Members or matched anonymously through a Loan Market (such stock loans being ''Market Loans''). In order to initiate a Market Loan, the Loan Market sends a matched transaction to OCC, which in turn sends two separate but linked settlement instructions to DTC to effect the movement of Eligible Stock and cash collateral between the accounts of the Market Loan Clearing Members through OCC's account at DTC.

Regardless of whether a transaction is initiated under the Stock Loan/Hedge Program or Market Loan Program, OCC novates the transaction and becomes the lender to the Borrowing Clearing Member and the borrower to the Lending Clearing Member. As the principal counterparty to the Borrowing and Lending Clearing Members, OCC guarantees the return of the full value of cash collateral to a Borrowing Clearing Member and guarantees the return of the Loaned Stock (or value of that Loaned Stock) to the Lending Clearing Member.[13] As noted above, OCC may be exposed to SWWR in its Stock Loan Programs where Clearing Members lend equity securities or ETNs issued by the Clearing Member or its affiliates. Specifically, the lending of Clearing Member or Member Affiliate-issued equity or ETNs creates a long exposure and liability in the case when a Clearing

[7] *See* Securities Exchange Act Release No. 78961 (September 28, 2016), 81 FR 70786, 70816, n. 317 (October 13, 2016) (S7–03–14) (''Standards for Covered Clearing Agencies''). *See also* Committee on Payment and Settlement Systems and Technical Committee of the International Organization of Securities Commissions, *Principles for financial market infrastructures* (Apr. 16, 2012), available at *http://www.bis.org/publ/cpss101a.pdf.*

[8] *See* OCC Rule 604, Interpretation and Policy .16.

[9] Under OCC's Margin Policy, OCC may collateralize certain exposures through the use of add-on charges.

[10] *See* Securities Exchange Act Release No. 53322 (February 15, 2006), 71 FR 9403 (February 23, 2006) (SR–OCC–2004–20). A detailed description of the STANS methodology is available at *http://optionsclearing.com/risk-management/margins/.*

[11] Under OCC's existing stress testing and Clearing Fund methodology, OCC runs on a daily basis a set of stress test scenarios designed to measure the exposure of the Clearing Fund to the portfolios of individual Clearing Member Groups and determine whether any such exposure is sufficiently large as to necessitate OCC calling for additional resources so that OCC continues to maintain sufficient financial resources to guard against potential losses under a wide range of stress scenarios, including extreme but plausible market conditions (''Sufficiency Scenarios,'' and such scenarios collectively constituting ''Sufficiency Stress Tests''). *See* Securities Exchange Act Release No. 83714 (July 26, 2018), 83 FR 37570 (August 1, 2018) (SR–OCC–2018–803) and Securities Exchange Act Release No. 83735 (July 27, 2018), 83 FR 37855 (August 2, 2018) (SR–OCC–2018–008). Under OCC Rule 609, the CFM Policy, and the Methodology Description, if a Sufficiency Stress Test identifies exposures that exceed 75% of the current Clearing Fund requirement less deficits (the ''75% threshold'' or ''Sufficiency Stress Test Threshold 1''), OCC may require additional margin deposits from the Clearing Member Group(s) driving the breach. If a Sufficiency Stress Test identifies exposures that exceed 90% of the current Clearing Fund, OCC would perform an intra-month resizing of the Clearing Fund. *Id.*

[12] OCC's By-Laws define ''Eligible Stock'' to mean, in part, any security that is eligible for lending in the Stock Loan/Hedge Program and the Market Loan Program. *See* Article I, Section 1.E(3) of the OCC By-Laws. Eligible Stock may include ETNs issued by OCC's Clearing Members.

[13] Under the Market Loan Program, OCC also provides a limited guaranty of dividend and rebate payments.

Member defaults and its own or affiliated equity or ETN declines.

OCC proposes to mitigate SWWR in its Stock Loan Programs by prohibiting Clearing Members from lending any Eligible Stock issued by such Clearing Member or any affiliate of such Clearing Member. The proposed restriction would apply to both SWWR Equity positions and SWWR ETN positions. OCC does not believe that the proposed restriction on lending SWWR Equity positions would have a material impact on Clearing Members in the Stock Loan Programs as Clearing Members do not typically engage in lending of their own equity securities and borrowers typically do not accept equity securities issued by their lending counterparty.[14] The proposed restrictions on lending SWWR ETN positions would, however, impact a very small segment of Clearing Members that lend SWWR ETNs.[15] OCC believes that the impact of the proposed changes would be limited by the fact that, unlike listed options, Clearing Members are able to lend SWWR positions on an uncleared basis outside of OCC. The proposed restrictions on lending activity in the Stock Loan Programs would not prevent Clearing Members from lending equities or ETNs issued by the Clearing Member or any affiliate of such Clearing Member on a bilateral basis if members wish to do so.

The proposed prohibition on lending Clearing Member or Member Affiliate-issued Eligible Stock would be included in new OCC Rules 2202(f) and 2202A(f) for the Stock Loan/Hedge Program and Market Loan Program, respectively. OCC would also make conforming changes to its Margin Policy and Margins Methodology to reflect the newly proposed restrictions in stock lending activity.

The proposed rule change would only apply to stock lending activity as of the time of implementation of the proposed rule change. The proposed rule change would not be applied retroactively to existing open positions, and Clearing Members with open stock loans involving Clearing Member or Member Affiliate-issued Eligible Stock would not be forced to terminate those existing positions. Any SWWR stock lending positions in existence as of the implementation of the proposed rule change would be subject to the SWWR charges described below until such positions are closed out through the normal course stock loan termination process.

2. SWWR Add-on

OCC proposes to adopt a new margin add-on (*i.e.,* the SWWR Add-on) to address SWWR from cleared positions involving Clearing Member and affiliate issued equities and ETNs. The SWWR Add-on would be calculated for each margin tier account of a Clearing Member Group having positions related to either publicly traded equities or ETNs issued by the Clearing Member Group and would cover all types of positions (equity used as collateral, equity and ETN options, single-stock futures). The proposed SWWR Add-on is comprised of three main components: (1) ''SWWR Equity Charge,'' (2) ''SWWR ETN Charge,'' and (3) ''SWWR Residual.'' Each of these components is discussed below.

a. SWWR Equity Charge

Under the proposal, when a Clearing Member defaults, it is assumed that the price of any equity security issued by the Clearing Member Group would fall to zero. As a result, OCC would calculate the SWWR Equity Charge by assuming that a Clearing Member's and its affiliates' equity securities would be priced at zero and value all cleared positions accordingly (*i.e.,* all stocks, single stock futures, call options, and put options would be valued at zero) to provide full protection for the risk of potential market exposure to products on a Clearing Member Group's own equity in a default or bankruptcy scenario. In each margin account, the profit and loss (''P&L'') of SWWR Equity positions would be calculated as the difference of the theoretical value of such securities (*i.e.,* zero) and the closing price of the position multiplied by the net quantity.[16] Moreover, any potential gain from the SWWR positions would be excluded by flooring the SWWR Equity Charge at zero.[17] As a result, OCC believes that the proposed SWWR Equity Charge would adequately cover the SWWR arising from a Clearing Member's SWWR Equity positions.

b. SWWR ETN Charge

In addition to SWWR that arises from equity securities issued by a Clearing Member or its affiliates, OCC is also exposed to SWWR from open positions related to the uncollateralized ETNs issued by a Clearing Member/Group, which are adversely correlated with the credit quality of that Clearing Member Group. These ETNs are generally equivalent to unsecured senior debt issued by the Clearing Member/Group. While a Clearing Member default can be triggered by its failure to meet other obligations, the firm may or may not default on its ETNs. Hence, the recovery rate for ETNs is uncertain and could be between 0% and 100%.

To address SWWR presented by ETNs issued by a Clearing Member/Group, OCC proposes to calculate an SWWR ETN Charge as part of the SWWR Add-on. OCC notes that, unlike SWWR Equity positions, for which it is assumed that the price of any equity security issued by the Clearing Member Group would fall to zero, the recovery rate for ETNs would not necessarily fall to zero. As a result, the proposed SWWR ETN Charge would utilize an industry standard recovery rate assumption designed to reflect the credit risk associated with such ETN positions.[18] OCC would also adopt additional stress test scenarios to monitor and measure SWWR ETN position exposures and allow for OCC to call for additional financial resources from its Clearing Members when certain thresholds are breached. These SWWR stress test scenarios are discussed in further detail below.

c. SWWR Residual

To ensure that OCC appropriately calculates margins to capture SWWR

[14] As of the start of September 2019, OCC had 107 Clearing Members, of which 64 have member or affiliate-issued securities eligible for lending in the Stock Loan Programs. OCC analyzed SWWR Equity lending activity for its Clearing Members from January 2018 through the beginning of September 2019. During this period, less than 10 Clearing Members had stock lending activity in SWWR Equity positions, and loans of SWWR Equity positions constituted less than three percent of each of those Clearing Members' average notional stock lending activity for the period.

[15] OCC analyzed SWWR ETN lending activity for its Clearing Members from January 2018 through the beginning of September 2019. Only 11 of OCC's 107 Clearing Members have member or affiliate issued ETNs. During this period, less than 10 Clearing Members had stock lending activity for SWWR ETN positions. For the majority of these Clearing Members, lending in SWWR ETN positions constituted approximately 13 percent or less of each of those Clearing Members' average notional stock lending activity for the period. For Clearing Members that averaged higher notational lending activity, OCC has observed significant reductions in this activity over recent months.

[16] Because SWWR of equity-related positions would be fully covered as part of margins, these positions would be removed from Clearing Fund shortfall calculations under OCC's stress testing and Clearing Fund methodology. Accordingly, OCC proposes to revise its Methodology Description to reflect the exclusion of SWWR Equity positions from the synthetic accounts used in OCC's stress testing.

[17] For example, suppose the P&L from the SWWR equity price going to 0 for all SWWR equity-related positions were a loss of $1 million. The SWWR Equity Charge in this case would be $1 million. If the P&L were a gain of $1 million, the SWWR Equity Charge would be $0.

[18] ETNs issued by a Clearing Member Group would still be stressed in OCC's Clearing Fund as only a part of the credit risk is covered by the SWWR ETN Charge. Additionally, any credit from margin assets would be adjusted by the direct charges related to the risk of the equity and ETNs issued by each Clearing Member Group.

Equity and SWWR ETN position exposures, OCC proposes to include an SWWR Residual component in SWWR Add-on. Under the proposal, OCC would continue to calculate base STANS margin requirements for Clearing Members with SWWR positions including SWWR Equity and SWWR ETN positions under its current methodology (*i.e.,* without assuming that all SWWR Equity positions fall to a value of zero and without assuming all SWWR ETN positions are valued at the recovery rate times their current price).[19] OCC would then also calculate a residual STANS margin with the SWWR Equity and SWWR ETN positions removed since for SWWR their P&L would be captured through the SWWR Equity and SWWR ETN Charges. The SWWR Residual would then be the difference between the residual margin and the base margin. If the sum of the SWWR Equity Charge, SWWR ETN Charge and SWWR Residual would result in a net credit to the Clearing Member,[20] then the SWWR Residual would be adjusted to ensure that OCC always uses a more conservative measure that captures the greater of either the base STANS margin or the residual STANS margin plus the SWWR Equity and SWWR ETN Charges.[21]

3. Enhancements to Sufficiency Stress Test Scenarios for ETNs

OCC proposes to revise its CFM Policy and Methodology Description to introduce new stress test scenarios designed to capture SWWR exposures for Clearing Member-issued ETNs that are not accounted for in the SWWR ETN Charge and that exceed certain thresholds of OCC's Clearing Fund (''SWWR Sufficiency Scenarios'').[22] Under the proposal, certain Sufficiency Scenarios [23] would be evaluated with Clearing Member-issued ETNs declining to zero within the respective Clearing Member's accounts. Such scenarios would include, but would not be limited to, the 1987 ''Black Monday'' market event on a Cover 1 basis and the two most extreme moves from the 2008 historical market event on a Cover 2 basis.

SWWR Sufficiency Scenarios would value Clearing Member-issued ETNs at a price of zero within their own accounts capturing impacts to any cleared positions tied to those ETNs. Calls, equities, and single-stock futures would all be valued at zero and puts would be valued at their strike price. For these scenarios, margin assets for shortfall calculations would not be adjusted by the SWWR ETN Charge. In addition, other scenarios may be created that embed the SWWR Equity risk by not excluding positions related to the Clearing Member Group's own equity but using an equity price of zero to value all related products.

In the event an SWWR Sufficiency Scenario identifies exposures that exceed 75% of the current Clearing Fund requirement less deficits, OCC may require additional margin deposits from the Clearing Member Group(s) driving the breach. If an SWWR Sufficiency Stress Scenario identifies exposures that exceed 90% of the current Clearing Fund, OCC would perform an intra-month resizing of the Clearing Fund. The proposed change would enable OCC to more accurately measure its credit risks as they relate to SWWR and better test the sufficiency of its overall financial resources and would allow OCC to call for additional financial resources when SWWR ETN position exposures exceed certain thresholds of OCC's Clearing Fund. As a result of these proposed enhancements, OCC believes it would have sufficient financial resources to cover the SWWR associated with SWWR ETN positions if such positions were to be liquidated for less than the assumed recovery rate.

OCC notes that, under its current CFM Policy, in the event results of a daily Sufficiency Stress Test over the final five business days preceding the monthly Clearing Fund sizing exceed 90% of the projected Clearing Fund size for the upcoming month, the Clearing Fund size is set such that the peak Sufficiency Stress Test draw is no greater than 90% of the Clearing Fund size. OCC proposes to revise the CFM Policy to provide that OCC generally does not intend to mutualize exposures resulting from the proposed SWWR Sufficiency Scenarios and therefore SWWR Sufficiency Scenarios would not be included for purposes of this anti-procyclicality measure. The proposed change is generally aligned with OCC's intention to appropriately charge individual Clearing Members based on the SWWR they bring to OCC.

4. Other Clarifying and Conforming Changes to CFM Policy and Methodology Description

In addition to the proposed changes described above, OCC would revise the CFM Policy and Methodology Description to provide that, with respect to stress test portfolio construction, SWWR single-name equity positions would be removed from stress test portfolios as they are fully collateralized in margins. Additionally, the Methodology Description would be revised to provide that when adding STANS margin asset amounts to scenario gains and losses, the SWWR Equity Charge, SWWR ETN Charge, and certain other Add-ons from STANS margin asset amounts are excluded.

Finally, OCC would revise its Methodology Description to clarify that for Idiosyncratic Scenarios,[24] the four riskiest names used to calculate idiosyncratic stress test exposures would exclude any equity issued by the Clearing Member's own firms and make

[19] STANS margin requirements are comprised of the sum of several components, each reflecting a different aspect of risk. The base component of the STANS margin requirement for each account is obtained using a risk measure known as 99% Expected Shortfall. The Expected Shortfall component is established as the estimated average of potential losses higher than the 99% value at risk threshold. The term ''value at risk'' or ''VaR'' refers to a statistical technique that, generally speaking, is used in risk management to measure the potential risk of loss for a given set of assets over a particular time horizon. This base component is then adjusted by the addition of a stress test component, which is obtained from consideration of the increases in 99% Expected Shortfall that would arise from market movements that are especially large and/or in which various kinds of risk factors exhibit perfect or zero correlations in place of their correlations estimated from historical data (''Dependence Add-on''), or from extreme adverse idiosyncratic movements in individual risk factors to which the account is particularly exposed (''Concentration Add-on'').

[20] For example, where a customer of a Clearing Member has net short positions referencing that Clearing Member's issued equities, such positions may actually present so-called ''right-way risk'' whereby the position would result in a gain or margin credit for that account as the credit quality of the Clearing Member deteriorates.

[21] For example, suppose that there are no SWWR ETN positions and the Expected Shortfall of a portfolio including all positions was a $10 million loss and the Expected Shortfall with the SWWR Equity-related positions removed was a greater loss of $11 million. In this case, the SWWR Residual would be −$1 million. If the Expected Shortfall with the SWWR Equity-related positions removed was reduced to a loss of $9 million then the SWWR Residual would depend on the SWWR Equity Charge: If the SWWR Equity Charge was more negative than −$1 million, then the SWWR Residual would be +$1 million; if the SWWR Equity Charge was $0, then SWWR Residual would be $0; and if SWWR Equity Charge was between $0 and −$1 million (*e.g.,* −$0.4 million), then SWWR Residual would be positive and the opposite value of SWWR Equity Charge (*e.g.,* +$0.4 million). Thus, the sum of the SWWR Equity Charge, SWWR ETN Charge, and SWWR Residual cannot be positive.

[22] OCC notes that it may also develop additional Informational Scenarios to monitor SWWR; however, these Informational Scenarios would not be used to call for additional financial resources from Clearing Members.

[23] *See supra* note 11.

[24] OCC has proposed in separate proposed rule change and advance notice filings to adopt a new set of stress scenarios to be used in the monthly sizing of OCC's Clearing Fund that are designed to capture the risks of extreme moves in individual or small subsets of securities (''Idiosyncratic Scenarios''). These Idiosyncratic Scenarios would consider the four single-name securities with the worst P&L in a Clearing Member's portfolio. *See supra* note 5.

other clarifying, non-substantive changes to the Methodology Description concerning stress testing price shocks for products with multiple risk factors and Idiosyncratic Scenarios that are unrelated to the proposal described herein.

Clearing Member Outreach

To inform Clearing Members of the proposed changes, OCC has provided an overview of the proposed changes to the Financial Risk Advisory Council (''FRAC''), a working group comprised of exchanges, Clearing Members and indirect participants of OCC. OCC has also performed direct outreach to Clearing Members that would be most impacted by the proposed changes. To-date, OCC has not received any material objections or concerns in response to this outreach.

Implementation Timing

OCC expects to implement the proposed changes within sixty (60) days after the date that OCC receives all necessary regulatory approvals for the proposed changes. OCC will announce the implementation date of the proposed change by an Information Memorandum posted to its public website at least two (2) weeks prior to implementation.

(1) Statutory Basis

OCC believes the proposed rule change is consistent with requirements of the Act and rules and regulations thereunder applicable to registered clearing agencies. Specifically, OCC believes the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act [25] and Rule 17Ad–22(b)(2),[26] Rule 17Ad–22(e)(4),[27] and Rule 17Ad–22(e)(6) [28] thereunder, as described in further detail below.

Consistency With the Section 17A(b)(3)(F) of the Exchange Act

Section 17A(b)(3)(F) of the Act [29] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities and derivatives transactions, to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible, and, in general, to protect investors and the public interest. OCC believes that prohibiting Clearing Members from lending their own or Member Affiliate-issued securities in the Stock Loan Programs and introducing the proposed SWWR Add-on charge would enhance OCC's ability to manage the credit risks presented by its Clearing Members' SWWR positions and would reduce the risk that OCC's financial resources would be insufficient in the event of a Clearing Member default. As a result, the proposed change is designed, in general, to enhance OCC's framework for measuring and managing its credit risks so that it can continue to provide prompt and accurate clearance and settlement of securities and derivatives transactions, assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible, and, in general, protect investors and the public interest consistent with Section 17A(b)(3)(F) of the Act.[30]

In addition, OCC believes that introducing new SWWR Sufficiency Scenarios designed to capture SWWR exposures for Clearing Member-issued ETNs that are not accounted for in the SWWR ETN Charge would provide OCC with a more comprehensive approach to managing OCC's credit risks as they relate to SWWR ETN positions. The proposed change would enable OCC to more accurately measure its credit risks and better test the sufficiency of its overall financial resources and would allow OCC to call for additional financial resources when those exposures exceed certain thresholds of OCC's Clearing Fund. The proposed rule change is therefore designed to enhance OCC's overall framework for measuring and managing its credit risks and would reduce the risk that OCC's financial resources would be insufficient in the event of a Clearing Member default. For these reasons, OCC believes the proposed change is designed to promote the prompt and accurate clearance and settlement of securities and derivatives transactions, to assure the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible, and, in general, to protect investors and the public interest in accordance with Section 17A(b)(3)(F) of the Act.[31]

OCC also proposes a number of other clarifying and conforming changes to its CFM Policy and Methodology Description required to implement the proposed SWWR Add-on and SWWR Sufficiency Scenarios described herein and to more clearly describe OCC's stress testing practices. OCC believes that these changes would enhance OCC's overall framework for measuring and managing its credit risks so that it can continue to provide prompt and accurate clearance and settlement of securities and derivatives transactions, assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible, and, in general, protect investors and the public interest consistent with Section 17A(b)(3)(F) of the Act.[32]

Consistency With Rule 17Ad–22 Under the Exchange Act

Rule 17Ad–22(b)(2) [33] requires a registered clearing agency that performs CCP services to establish, implement, maintain and enforce written policies and procedures reasonably designed to, in part, use margin requirements to limit its credit exposures to participants under normal market conditions and use risk-based models and parameters to set such margin requirements. In addition, Rules 17Ad–22(e)(6)(i) and (v) [34] require a covered clearing agency that provides CCP services to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum: (1) Considers and produces margin levels commensurate with the risks and particular attributes of each relevant product, portfolio, and market, and (2) uses an appropriate method for measuring credit exposure that accounts for relevant product risk factors and portfolio effects across products.

The proposed changes to OCC's margin and Clearing Fund policies and methodologies to adopt the SWWR Add-on would utilize a risk-based model designed to limit OCC's credit exposures to Clearing Members that present SWWR exposure to OCC through the clearing of Clearing Member-issued equity and ETN positions. OCC believes the proposed SWWR Add-on is reasonably designed to produce margin levels commensurate with the risks and particular attributes SWWR Equity and ETN positions and would use an appropriate method for measuring credit exposure that accounts for relevant product risk factors such as SWWR.

The proposed SWWR Add-on would include both an SWWR Equity Charge and SWWR ETN Charge to address the SWWR attributes and exposures presented to OCC by each type of product. For example, the SWWR Equity Charge assumes that when a Clearing Member defaults the price of

[25] 15 U.S.C. 78q–1(b)(3)(F).

[26] 17 CFR 240.17Ad–22(b)(2).

[27] 17 CFR 240.17Ad–22(e)(4).

[28] 17 CFR 240.17Ad–22(e)(6).

[29] 15 U.S.C. 78q–1(b)(3)(F).

[30] *Id.*

[31] *Id.*

[32] *Id.*

[33] 17 CFR 240.17Ad–22(b)(2).

[34] 17 CFR 240.17Ad–22(e)(6)(i) and (v).

any equity security issued by the Clearing Member Group would fall to zero. As a result, OCC would calculate the SWWR Equity Charge by assuming that a Clearing Member's and its affiliates' equity securities would be priced at zero and value all cleared positions accordingly to provide full protection for the risk of potential market exposure to products on a Clearing Member Group's own equity in a default or bankruptcy scenario. Moreover, the SWWR Add-on charge would include an SWWR Residual component to ensure that OCC takes the more conservative of the base STANS margin requirement or margin requirements including the SWWR Equity Charge (particularly in circumstances where using the SWWR Equity Charge would result in a net credit to the Clearing Member).

In addition, OCC would adopt an SWWR ETN Charge to address the SWWR presented by Clearing Member-issued ETNs. ETNs have different characteristics than equity securities and more closely reflect those characteristics of other unsecured debt obligations. For example, if a Clearing Member defaults that does not necessarily imply that it will automatically default on its ETNs. Therefore, ETNs are not necessarily valued at 0 and in fact may retain 100% of their value and be exposed to normal market risk. OCC proposes to measure the risk of these positions using an industry standard recovery rate assumption designed to calculate a margin charge that reflects the expected credit risk associated with such ETN positions. The potential market risk of the ETNs would still be covered by including ETNs in regular margin calculations, whereas the SWWR Equity positions are assumed to be heading towards bankruptcy and necessarily valued near 0 in a default situation.

For these reasons, OCC believes the proposed SWWR Add-on would enhance OCC's margin system by providing for a risk-based model that: (1) Sets margin requirements designed to limit OCC's SWWR exposures to its participant; (2) considers and produces margin levels commensurate with the risks and particular attributes SWWR positions cleared by OCC; and (3) uses an appropriate method for measuring such SWWR exposures consistent with the requirements of Rules 17Ad–22(b)(2), (e)(6)(i) and (e)(6)(v).[35]

Rules 17Ad–22(e)(4)(iii) and (vi) [36] require that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by: (1) Maintaining additional financial resources at the minimum to enable it to cover a wide range of foreseeable stress scenarios that include, but are not limited to, the default of the participant family that would potentially cause the largest aggregate credit exposure for the covered clearing agency in extreme but plausible market conditions and (2) testing the sufficiency of its total financial resources available to meet these minimum financial resource requirements. OCC believes that introducing new SWWR Sufficiency Scenarios designed to capture SWWR exposures for Clearing Member-issued ETNs that are not accounted for in the SWWR ETN Charge would enable OCC to more accurately measure its credit risks and better test the sufficiency of its overall financial resources, particularly in stressed marked conditions. The proposed change would also allow OCC to call for additional financial resources when those exposures exceed certain thresholds of OCC's Clearing Fund. The proposed rule change is therefore designed to enhance OCC's overall framework for measuring and managing its credit risks and would reduce the risk that OCC's financial resources would be insufficient in the event of a Clearing Member default consistent with Rules 17Ad–22(e)(4)(iii) and (vi).[37]

Rule 17Ad–22(e)(4) [38] generally requires that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes. By prohibiting Clearing Members from lending Eligible Stock issued by the Clearing Member or any affiliate of such Clearing Member, OCC would mitigate the SWWR that currently exists in its Stock Loan Programs and thereby reduce the risk that OCC's financial resources would be insufficient in the event such a Clearing Member would default. OCC believes the proposed change is therefore reasonably designed to help OCC manage the credit risks associated with SWWR Equity and SWWR ETN positions in the Stock Loan Programs and is therefore consistent with Rule 17Ad–22(e)(4).[39]

For the reasons set forth above, OCC believes the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act [40] and the rules promulgated thereunder.

B. Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act [41] requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. OCC notes that while the proposed SWWR Add-on and SWWR Sufficiency Scenario margin charges may impact or impose a burden on competition for those Clearing Members with SWWR exposures in their cleared positions when compared to Clearing Members without SWWR positions, any burden on competition would be necessary or appropriate in furtherance of the purposes of the Act. The proposed margin charges would be imposed on all Clearing Members that bring SWWR exposure to OCC on an individualized basis in an amount reasonably calculated to mitigate the risks posed to OCC by such Clearing Members' SWWR positions. The proposed rule change is necessary for OCC to limit its credit exposures posed by these securities. Moreover, OCC believes that the proposed rule change would appropriately charge individual Clearing Members based on the SWWR they bring to OCC. The Clearing Members most likely to be impacted by the proposed changes primarily consist of larger Clearing Members or Clearing Members that are affiliated with, larger holding companies, banks, and financial services firms that issue publicly traded equity or issued ETNs. OCC notes, however, that the proposed changes could impact any Clearing Member that has publicly traded equity or issued ETNs and that clears positions in such securities through OCC, regardless of the respective size of that member. The proposed rule change would enable OCC to calculate and collect margin that more accurately reflects the risk characteristics of these securities and to help limit potential losses from defaults by Clearing Members with SWWR exposures. In this way, OCC believes the proposed change would promote the prompt and accurate clearance and settlement of securities transactions and protect investors and the public interest. As such, OCC believes any burden on

[35] 17 CFR 240.17Ad–22(b)(2), (e)(6)(i), and (e)(6)(v).

[36] 17 CFR 240.17Ad–22(e)(4)(iii) and (vi).

[37] *Id.*

[38] 17 CFR 240.17Ad–22(e)(4).

[39] *Id.*

[40] 15 U.S.C. 78q–1(b)(3)(F)

[41] 15 U.S.C. 78q–1(b)(3)(I).

competition imposed by the new SWWR Add-on and SWWR Sufficiency Stress Test margin charges would be necessary and appropriate in furtherance of the Act and would therefore be consistent with Section 17A(b)(3)(I) of the Act.[42]

OCC also proposes to mitigate SWWR in its Stock Loan Programs by prohibiting Clearing Members from lending any Eligible Stock issued by such Clearing Member or any affiliate of such Clearing Member. As discussed above, OCC does not believe that the proposed restriction on lending SWWR Equity positions would have a material impact on Clearing Members in the Stock Loan Programs. The vast majority of OCC's Clearing Members do not lend their own or affiliate-issued equity securities in the Stock Loan Programs, and to the extent Clearing Members do engage in such activity, it is minimal when compared to their overall stock lending activity.[43] The proposed restrictions on lending SWWR ETN positions would, however, impact a very small segment of Clearing Members that lend SWWR ETNs.[44] OCC believes that it is necessary and appropriate to mitigate the SWWR associated with this stock lending activity by restricting Clearing Members from lending any Eligible Stock issued by such Clearing Member or any affiliate of such Clearing Member. OCC believes restricting the lending of SWWR positions is the most prudent way to manage SWWR in the Stock Loan Programs because it is the simplest and most effective way to mitigate this risk from an operational and default management perspective. By restricting lending activity for SWWR positions, large changes in margin requirements associated with the initiation of these types of positions would be avoided. The proposed change would also simplify the potential closeout activities associated with a default. Moreover, OCC believes the proposed limitation on lending SWWR positions is the most effective way to address the potential liquidity demands driven by the lending of SWWR positions, the costs of which are borne by all of OCC's Clearing Members and not just those members lending SWWR positions. OCC also believes that the high rate of collateralization of these positions that would otherwise be imposed through the newly proposed SWWR charges would create an incentive for members to not use the OCC Stock Loan Programs for these transactions. OCC further notes that, unlike listed options, OCC's Stock Loan Programs only constitute a portion of the overall securities lending markets and therefore Clearing Members would still be able to lend these securities on an uncleared basis outside of OCC. As a result, the proposed restrictions on lending activity in the Stock Loan Programs would not prevent Clearing Members from lending those securities on a bilateral basis if they choose to do so, thereby limiting the potential competitive impact or burden of the proposed rule change. OCC believes the proposed change would enhance OCC's ability to manage the credit risks presented by SWWR positions in the Stock Loan Programs and would reduce the risk that OCC's financial resources would be insufficient in the event of a Clearing Member default, thereby promoting the prompt and accurate clearance and settlement of securities transactions and the protection of investors and the public interest. As such, OCC believes any burden on competition imposed by the proposed restrictions would be necessary and appropriate in furtherance of the Act and would therefore be consistent with Section 17A(b)(3)(I) of the Act.[45]

C. Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Exchange Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–OCC–2019–010 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–OCC–2019–010. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at *https://www.theocc.com/about/publications/bylaws.jsp.*

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–OCC–2019–010 and should be submitted on or before November 19, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[46]

Jill M. Petersen,

Assistant Secretary.

[FR Doc. 2019–23551 Filed 10–28–19; 8:45 am]

BILLING CODE 8011–01–P

[42] *Id.*

[43] *See supra* note 14 and associated text.

[44] *See supra* note 15 and associated text.

[45] *Id.*

[46] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87388; File No. SR–LCH SA–2019–008]

Self-Regulatory Organizations; LCH SA; Notice of Filing of a Proposed Rule Change Relating to the Updated 2018 Version of the Recovery Plan

October 23, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder [2] notice is hereby given that on October 8, 2019, Banque Centrale de Compensation, which conducts business under the name LCH SA (''LCH SA''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II and III below, which Items have been prepared primarily by LCH SA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

LCH SA is proposing to adopt an updated recovery plan (the ''RP'') in accordance with Rule 17Ad–22(e)(3)(ii). The text of the proposed rule change has been annexed as Exhibit 5. LCH SA has requested confidential treatment of the material submitted as Exhibit 5.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, LCH SA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. LCH SA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On September 28, 2016, the Securities and Exchange Commission (the ''Commission'') adopted amendments to Rule 17Ad–22 [3] pursuant to Section 17A of the Securities Exchange Act of 1934 (the ''Act'') [4] and the Payment, Clearing and Settlement Supervision Act of 2010 (''Clearing Supervision Act'') [5] to establish enhanced standards for the operation and governance of those clearing agencies registered with the Commission that meet the definition of a ''covered clearing agency,'' as defined by Rule 17Ad–22(a)(5) [6] (collectively, the new and amended rules are herein referred to as ''CCA rules'').

LCH SA is a covered clearing agency under the CCA rules and therefore is subject to the requirements of the CCA rules, including Rule 17Ad–22(e)(3). The CCA rules require that covered clearing agencies, among other things, ''establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, which . . . includes plans for the recovery and orderly wind-down of the covered clearing agency necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses''.[7] As a central counterparty recognized under the European Market Infrastructure Regulation (''EMIR''),[8] LCH SA is also subject to prudential requirements, as well as requirements regarding its operations and oversight. As a credit institution based in the European Union, LCH SA is also subject to Directive 2014/59/EU, as supplemented, requiring institutions to draw up and maintain recovery plans setting forth options for measures to be taken by the institution to restore its financial position following a significant deterioration of its financial position.

Specific guidance has been given on Recovery for CCP by CPMI IOSCO. Within the CPMI IOSCO principles for financial market infrastructures (PFMI) it is outlined that all systemically important FMIs should have a comprehensive and effective recovery plan. For this purpose, it has issued the report ''recovery of financial market infrastructures'' containing guidance on recovery plans, content of a recovery plan in October 2014 and a guidance relating resilience and recovery in 2017.

Furthermore, regulations are under preparation on a European level outlining the Recovery and Resolution measures for CCPs.

As described in more detail below, the purpose of the RP is to maintain the continuity of critical services in times of extreme stress and to facilitate the recovery of LCH SA agency. Among other things, the RP seeks to: (i) Identify if and to what level LCH SA's service are critical for the market and what internal or external services/systems are critical for the continuity of LCH SA's activity; (ii) outline the scenario under which recovery of the LCH SA might be necessary; (iii) define the early warning indicators and triggers for initiating the recovery measures under the RP, including the market conditions or events that could trigger it; (iv) define the governance framework to trigger these recovery measures; (v) identify the available recovery tools to manage crisis situations and to restore business as usual; and (vi) perform a quantitative and qualitative assessment if the recover tools meet the CPMI IOSCO criteria for recovery instruments.

The RP also includes a detailed summary of the overall business and regulatory framework that LCH SA operates in, including identification of applicable regulations, company structure, detail regarding the LCH SA business lines and geographical spread, and information regarding the interaction between LCH SA and its parent entity (the ''Parent'').

The RP also contains an FMI analysis, which analyses LCH SA relationship with other financial market infrastructure (*e.g.* settlement platforms, trade repositories, etc) and institutions used by LCH SA or its clearing members such a payment and settlement agents.

The RP covers all scenarios, which may potentially prevent LCH SA from providing its critical services:

—The default of one or multiple Clearing Member(s) on one or several of its markets, where LCH SA has to re-establish the matched book and may have allocate any uncovered credit losses to its own capital or to surviving clearing members.

—Potential and actual liquidity shortfalls as result of a clearing member or allied clearing house default.

—The default of an investment counterparty of LCH SA or any other investment losses resulting from changes in the market value on the investments.

—A loss resulting from an operational risk event or any other event which impacts the critical services provided by LCH SA and particularly legal and operational risk (including Fraud) which finally would erode LCH SA's capital.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.17Ad–22.

[4] 15 U.S.C. 78q.

[5] 12 U.S.C. 5461 *et seq.*

[6] 17 CFR 240.17Ad–22(a)(5).

[7] 17 CFR 240.17Ad–22(e)(3)(ii).

[8] Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories.

—Failure of a critical IT service provider. A special focus has been made on LCH Ltd as a provider of critical services to LCH SA given the fact that LCH Ltd is also a CCP and part of the same group.
—Poor business performance or loss of critical contracts with Exchanges.
—Operational or financial failure of an FMI (*e.g.* allied clearing house/(I) CSD/Trades Repository).

The updated 2018 version of the RP includes the following main improvements:

—*CC&G Rulebook changes:* Consultation with clearing members and National Competent Authorities have been completed and LCH SA has implemented the rules relating to CC&G service closure during 2018. This has resolved a potential liquidity risk relating to a CC&G default.
—*Critical service providers:* LCH SA has implemented a new framework to manage critical service providers, this framework has been approved in the LCH SA Board and a new list of critical service providers has been put together which is part of this RP.
—*Cyber scenario:* The RP includes now more details on the management of a cyber-scenario and the Cyber Crisis Management Plan has been added as a new recovery tool. The purpose of this document is to provide a framework of procedures allowing LCH SA to respond to cyber incidents in case of cyber crisis. As such, the process defined is to be activated in case of detection of a cyber incident that could potentially cause a significant impact on LCH SA business objectives.
—*Capital related recovery tools:* The quantitative assessment section of the recovery plan now includes more details on the monitoring of capital related recovery tools like surplus capital, variable payments and dividend payments.
—*Recovery tools for non-Euro transactions and collateral:* LCH SA has to its disposal GMRA's to raise liquidity on USD and GBP, access to FX markets and can perform payments in alternative currency (EUR) as a last resort.
—*LCH Ltd exit plan:* LCH Ltd provides IT services to LCH SA and a practical approach on how LCH SA will manage a potential wind down of LCH Ltd is now included in the RP.

1. Identification of Critical Services and Operations

With respect to the critical services that might impact the continuity of LCH SA's operations, the proposed RP provides that an assessment has been done in accordance with guidance by the Financial Stability Board (''FSB'') on identification of critical functions and shared services. LCH SA has assessed that the clearing services LCH SA provides to participants with respect to the markets identified in the RP are deemed critical for purposes of the RP. Overall the services provided in respect of all markets are critical because: (1) The volume of the activity on certain markets may be very significant, (2) most of the business on the relevant market is cleared through LCH SA or (3) the suspension of the clearing service could impact materially the functioning of the market; the level of global market share with respect to certain products is high; and LCH SA's service are used by significant clearing firms. Moreover, a transfer of the clearing activity to another CCP is technically and organizationally complex to perform on short notice.

The RP also identifies those shared operations which LCH SA depends on to perform critical services to members, including those critical departments and services and systems within its corporate group and those provided by others. The RP identifies the main operating units within LCH SA that play a critical role in providing services as well as those enterprise systems that are critical for LCH SA's ongoing operations. Such systems are categorized as (i) Tier 1 Enterprise Critical (which is the most important category and where a failure may have direct impact on the continued functioning of LCH SA); (ii) Tier 2 Business Critical (which is a category of systems where business may not be able to proceed as usual in the event of a failure); and (iii) Tier 3 Business Support (which are non-critical systems). In addition, the RP identifies those services provided by its affiliates (including its Parent) and third-party service providers through a comprehensive framework that are essential to LCH SA's operations as well as the agreements governing such relationships.

The RP describes that LCH SA maintains comprehensive exit management plans should LCH Ltd initiate its own recovery and wind-down plan, cease to operate following a Business continuity or Cyber event, or notify LCH SA of its termination of services. as well as the corresponding recovery tools in each case.

The RP also describes the business continuity procedures and exit management plans that LCH SA would initiate upon the failure of a critical third-party service provider including LCH Ltd. This is managed under relevant services agreement between LCH Ltd and LCH SA so that LCH SA can continue to offer its services in case of a potential failure.

2. Identification of Possible Stress and Recovery Scenarios

The RP categorizes potential stress scenarios in two ways as a result of either: (i) Clearing member defaults and (ii) non-clearing member events. Clearing member defaults are identified as those losses that threaten LCH SA's ability to operate as a going concern through either uncovered credit losses or liquidity shortfalls created as a result of a default by one or more members. Non-clearing member defaults are defined as losses impacting capital adequacy arising from risks, including, without limitation, general business risks, operational events, custody and investment risks, or risks on the interoperability link.

The RP then identifies, prior to implementing any of the recovery strategies described therein, the day-to-day risk measures in place to assure provision of the critical services performed where these are insufficient the recovery plan will be triggered.

With respect to clearing member defaults, the LCH SA risk framework provides mitigations for uncovered credit losses due to a member default. LCH SA follows high standards to assess financial resources against member portfolios, including initial margin model covering the potential loss from any member default to a 99.7% confidence level over the applicable holding period, margin add-ons to deal with specific member portfolios risks such as concentration, liquidity risk and sovereign risk, and default fund sizing to cover simultaneous default of the 2 members having the largest stress testing losses beyond the 99.7% confidence level. Stress tests are applied by LCH SA in order to assess whether financial resources are calibrated to handle systemic risks. In addition, a reverse stress resting procedure is used to ascertain adequacy of financial resources held against member positions. The stress testing framework is reviewed on an annual basis.

Further, reverse stress testing exercise is conducted at least quarterly for each default fund and is subject to review by LCH Executive Risk Committee. Risk monitoring mechanisms have been established in order to anticipate and identify any credit or market risks with respect to a clearing member, including daily monitoring of credit watch lists by LCH SA's credit risk department.

The RP covers the default of one or multiple Clearing Member(s) on one or several of its markets, where LCH SA has to re-establish the matched book and may have allocate any uncovered credit losses to its own capital or to surviving clearing members.

With respect to liquidity shortfalls as a result of the clearing member default, the existing liquidity risk management framework seeks to manage liquidity risk by requiring certain minimum liquidity coverage ratio and using reserve stress testing to identify plausible scenarios where the liquidity coverage ratio falls below 100%, as well as considering the liquidity impact as a result of the default of its liquidity line provider.

LCH SA would leverage on the reserve stress testing scenarios and the liquidity line provider's default to define the liquidity recovery scenarios.

In addition, the RP provides that LCH SA uses a set of early warning indicators and management actions to mitigate liquidity risk prior to implementing RP. To the extent a clearing member default has occurred, LCH SA would perform increased risk monitoring, including preparation of liquidity risk reports that would be produced several times a day.

The RP covers the potential and actual liquidity shortfalls as result of a clearing member or allied clearing house default.

For operational risks, the RP provides that on a monthly basis, control assessments, incident and audit recommendations are reviewed and adjusted as appropriate. On a yearly basis, a risk and control self-assessment is performed whereby all risks are reassessed. The operational risk department performs second line challenge on all these activities. In addition, all ''major'' or ''high'' incidents are processed through a detailed incident review to identify actions to further improve the control environment.

LCH SA performs a business impact analysis where it identifies all critical systems and departments and has in place a global business continuity strategy which outlines the strategy to maintain critical services in case of a disaster. The RP further identifies events, including cyber-attacks, failure of a critical service provider, failure of data providers and exchanges, failure of LCH SA's Parent, and reputational events as potential operational risks that could threaten its continued functioning.

The RP covers both a loss resulting from an operational risk event (for example resulting from a fraud) or any other event which impacts the critical services provided by LCH SA (*e.g.* failure in the provision of service by a third party, unavailability of primary place of work, Staff unavailability to a point where the continuity of operations may be compromised or the occurrence of a cyber-event).

The most important operational exposures within SA relates to Cyber risk:

—Third party liability, associated damages and defense costs arising from the following, amongst others: Privacy and confidentiality, Network security, Media liability, Regulatory costs and fines, Internal investigation; cover combines the Civil Liability and Crime policy only for Third Party related Liabilities and the Cyber policy;
—Business Interruption, caused by a Cyber incident or a software malfunction.

The definition of a cyber crisis involves several notions which, according to the ISO 27000 standard, can be described as follows:

—A security event is an identified occurrence of a system, service or network state indicating a possible breach of information security policy or failure of controls, or a previously unknown situation that can be security relevant
—A security incident is a single or a series of unwanted or unexpected information security events that have a significant probability of compromising business operations and threatening information security.

The following scenarios are possible for a cyber attack:

—Attempts (either failed or successful) to gain unauthorized access to a system or its data
—Security breach or potential security breach
—Unauthorized scan or probe
—Unwanted disruption or denial of service
—Malicious code or virus
—Unauthorized processing or storage of data
—Networking system failure (widespread)
—Application or database failure (widespread)
—Etc.

A crisis management plan has been developed to manage the risks listed above. It comprises:

—The procedure to identify the priority of an incident and decide whether to activate the Crisis Management Plan (Triaging Procedure);
—The procedure to notify the hierarchy (Escalation Procedure) and activate the Crisis Management Team (Crisis Management Team Activation Plan);
—The Tactical Procedures used to fuel the decision-making process, depending on the crisis scenario;
—The Communication Procedures used to dress the guidelines of the notification of the incident;
—The several contact registries necessary to swiftly notify the relevant contacts.

A specific change in the plan has been to detail the case of a failure of LCH Ltd which provides critical IT service to LCH SA. The following scenarios have been identified:

1. A Business continuity event affecting LCH Ltd. This is mitigated through highly resilient systems described in the business continuity plan.

2. A sale of LCH SA. In this case, LCH Ltd would continue to provide the service over the period required to exit and described in detail in the exit plan. The plan states the main steps that would be followed.

3. A Wind-down of LCH Ltd. In this case, LCH Ltd will have insufficient resources to continue as a CCP but will continue to provide the service for 6 months supported by its wind down capital. The plan describes the steps that would be followed to replicate the exact IT service provided by LCH Ltd on short notice.

Business risk is managed by the relevant individual business lines and requires frequent monitoring of results against budget and financial plans, with a second line challenge performed by the risk and finance departments to verify if sufficient capital buffers are available for applicable business risks. In addition, LCH SA conducts a yearly review of business risk scenarios to define potential loss scenarios under foreseeable conditions and the LCH SA finance department monitors key metrics, including revenues and quarterly financial information. Investment risk and second line monitoring is also conducted with respect to interest rate risk, aggregate credit risk exposure, daily mark-to-market limits, and internal credit scores for investment counterparties.

The RP also considers that LCH SA is connected to a broad range of financial market infrastructures, including central securities depositories, settlement platforms and interoperating central counterparties and identifies the types of operational or financial failures that could restrict LCH SA's ability to operate.

Finally, the RP identifies a series of scenarios which, taken together, could also impact the continued functioning of critical services.

3. Triggers for RP

The RP includes a detailed list of events, which if they were to occur would trigger the implementation of a specific action identified in the RP.

The RP provides that a clearing member default will be identified through credit risk monitoring and review of external information indicating a default. Each LCH SA business line then applies its own default management process under which a default management group identifies and manages the phases of the default management process and the application of the default waterfall. The possible triggers for the RP include: (i) A clearing member default, in which case the default procedures will be initiated to reestablish the matched book; (ii) several default events may lead to more than one replenishment of Skin in the Game (iii) mutualized default fund contributions per specific default have been consumed, in which case unfunded resources will be used to keep LCH SA appropriately funded.

Each LCH SA business lines maintain its own default management process and waterfall, but, in general, the RP describes the tools used in the event of a clearing member default. The default management process is used to re-establish the matched book of LCH SA and return back to business as usual and therefore considered as a recovery tool. The relevant governance for the management of a default is followed as described in the paragraph 5.

When covering the relevant credit losses related to a default event, first, LCH SA looks to the defaulting clearing member's margin. These amounts are already held by LCH SA and are available to manage the default of a clearing member and, as such, are not considered to be a trigger of the RP. Second, LCH SA looks to the defaulting clearing member's default fund contribution, which may be allocated to the defaulting clearing member's shortfalls. Again, this action is within the control of LCH SA and does not impact the capital adequacy of LCH SA, so is also not considered a trigger for the RP. Third, in line with requirements under EMIR, LCH SA is required to hold capital equivalent to 25 percent of LCH SA's minimum net capital requirement against which default losses can be applied against liquid available capital. In addition, excess capital is held to replenish such amount within the relevant EMIR deadline. Where multiple defaults occur over a longer time period and lead to multiple replenishments of Skin in the Game, this may lead to start up of the recovery plan and application of capital conservation measures. Fourth, should losses arising from a clearing member default be consumed by the defaulter's margin and default fund contribution and subsequently LCH SA's contribution from capital, LCH SA may look to non-defaulting member default fund contributions. Those amounts are pre-funded by members and held and controlled by LCH SA for the purposes of managing a default and, thus, the utilization of those amounts is not considered an application of the RP. However, LCH SA has the right to trigger an assessment of the defaults as to reestablish the fund to its original size, and such an assessment is considered to be a recovery measure under the RP. Finally, when it is no longer possible for LCH SA to make assessments and all pre-funded default fund contributions have been used, recovery measures under the RP, as described below, will be implemented.

With respect to liquidity shortfall triggers, LCH SA runs a daily liquidity assessment and monitors key liquidity drivers. In the event that these fall below a specific level, the RP will be triggered. In addition, the occurrence of a clearing member default or the failure of a third-party providing settlement and payment services to clearing member may also result in increased monitoring, and in the event that LCH SA does not have sufficient liquid resources to meet liquidity needs, the RP would be triggered.

With respect to non-clearing member default events, the RP identifies those events with more particularity and identifies the specific triggers for the RP with respect to such events:

For investment losses, which are defined as losses related to the default of an investment counterparty or losses incurred as a result of extreme market conditions, the RP is triggered if losses are greater than the maximum regulatory capital allocated to this activity. For operational risk events, the RP is triggered upon any operational losses that consume the regulatory capital LCH SA holds against the relevant risks; failure of a third party which impacts the provision of LCH SA's services; and reputational events impacting LCH SA's reputation with clearing members and partners. With respect to business risks, the RP is triggered upon a loss that consumes the regulatory capital LCH SA holds against the relevant risks. The RP may also be triggered upon the failure of other financial market infrastructures or a failure in the delivery of services including a cyber-event.

4. Identification and Assessment of Recovery Tools

The RP identifies the various recovery tools that may be applied by LCH SA upon the triggering of the RP, using again the same distinction between clearing member default events and non-clearing member events.

For clearing member default scenarios, the existing stages of the LCH SA default management process have been used as the framework for identifying and confirming the appropriate tools to use in the event of a clearing member default. The RP describes the default management process in detail and summarizes the actions to be taken at each phase, including, as mentioned above, (i) reestablishing the matched book, (ii) default fund assessments, (iii) service continuity charges, and (iv) voluntary payments. To the extent that the default fund and assessments cannot manage the losses accumulated from the clearing member default and any service continuity or voluntary service continuity contributions received are not sufficient to cover the relevant losses, the service closure phase of the default management process is triggered and all outstanding contracts will be closed out as of the clearing day following such determination and all relevant losses are allocated to the clearing members. If the RP is triggered as a result of a liquidity shortfall, the RP provides that LCH SA may use its central bank credit line to deposited securities received on behalf of defaulting clearing member(s). The amounts of non-Euro liquidity are very low and LCH SA has appropriate liquidity lines but also has recovery tools in place for this for example the possibility to pay in alternative currency (Euro).

Other potential tools to manage liquidity stress situation are limits with respect to illiquid collateral or, if necessary apply increased haircuts on certain types of collateral to incentivize the use of more liquid collateral as well or apply specific liquidity margins.

The measures should assure that LCH SA has sufficient liquid resources at all times. As a last resort, under its rulebook, LCH SA could defer funding for the settlement platform for a limited period of time.

As to non-clearing member events, the tool that is used under the RP will depend on the nature of the event, but for most investment, business, and operational risks, LCH SA has its capital surplus that it can allocate losses against. Further, LCH SA can put in place several measures for capital conservation and LCH SA also maintains insurance coverage for specific operational risk events. As a last resort, LCH SA may also initiate a capital raising strategy in order to obtain an injection of capital to replenish any consumed capital.

In order to cope with a liquidity stress situation, LCH SA has the possibility to use non-Euro collateral to raise liquidity. The repurchase agreements will then realise the required currency liquidity requirements needed to satisfy the outgoings resulting from the member default. Non-euro bonds deposited as non cash collateral by surviving members can be used for repo transactions and CALM should perform repo transactions with Gilt/T-bills as collateral in order to raise liquidity. CaLM has multi-currency GMRA signed with a number of investment banks, which will allow CaLM to do bilateral transactions. If liquidity is received in non-euro currencies through bilateral repo transaction this can be transformed into Euro through the recovery tool ''FX markets''. CALM also has its disposal some Triparty repo agreement signed to do cross currency repo transactions, where liquidity is received directly in Euro from Gilt or USD securities.

For any shortfall in a particular currency SA has the ability to enter into a FX Transaction with a range of counterparties. LCH SA also has the possibility to transform liquidity received through bilateral repo transaction of collateral in USD and GBP into Euro.

Article 4.4.3.2 of CDSClear rulebook and instruction I.V.4–2 of the SA Rulebook allows LCH to convert amounts owed to members into such other currency or currencies, using a reasonable/prevailing rate of exchange. In the application of this regulation, LCH SA is therefore able to resolve a specific currency liquidity shortfall by completing the required transaction in an alternate currency than the original obligation.

A ''Cyber Crisis Management Plan'' has been developed which provide a framework of procedures allowing LCH SA to respond to cyber incidents in case of cyber crisis. As such, the process defined is to be activated in case of detection of a cyber incident that could potentially cause a significant impact on LCH SA business objectives. Cyber incidents can develop rapidly and business impact can quickly escalate. The objective of this framework is to manage cyber events or incident in a way that:

- Limits the damage, increases the confidence in stakeholders and reduces recovery time and costs,
- facilitate systematic and efficient response,
- empowered decision making,
- all response activities are recognised and coordinated.

LCH SA monitors on a monthly basis if it meets the EMIR capital requirements and in addition it monitors sufficient ''surplus/buffers capital'' is available to assure recovery of the CCP from both CMD and non-CMD losses under single scenarios (*e.g.* default of a clearing member on one or several services, default on an investment counterpart) and combined scenarios (*e.g.* Failure of a clearing member which is also acting as an investment counterparty). Associated to each scenario is attached one or several indicators and the capital coverage tools available in each case. In addition to the capital requirements and available headroom, LCH SA follows indicators such as the Liquidity Coverage Ratio, the aggregate credit risk and market risk exposure on its investment portfolio, operational risk and business risks indicators. Capital coverage instruments include prefunded capital surplus and buffers, limitation of credit and market risks and therefore of potential losses and insurance coverage. The capital and buffers are monitored in order to allow LCH SA to always be in a situation to replenish the SIG within one month, if the CCP was to face multiple defaults. The liquidity coverage ratio indicator ensures that LCH SA will always be in a situation to have access to sufficient liquidity provided either from its own cash or by the ECB even in very extreme cases as no capital coverage is possible in a liquidity stress scenario. The Aggregate Risk Exposure and Market Risk limits on the investment portfolio are in place to ensure that capital will be sufficient to cover any reasonable losses. Operational risk is followed to ensure that operational risk capital can be replenished if the insurance policy does not cover the loss event. Finally, business risk scenarios are monitored to ensure LCH SA has sufficient capital for replenishment if required.

Next to the surplus capital, the LCH Board may decide to withhold Dividend payment and Variable bonus payment to be used as additional buffers.

If an event resulted in a major disruption of its activities, LCH SA would initiate its business continuity strategy, which establishes an enterprise wide RP and response proportionate to the event which aims to minimize the impact of a major disruption on LCH SA's critical business and resources, or in case of a cyber-event LCH will trigger the cyber crisis management plan. For any disruption or loss of key third-party service provider, LCH SA would be able to exercise several contractual rights and maintains exit plans which are intended to safeguard the continuity of services. LCH SA also maintains back up procedures and protocols that would be initiated if there is an impact on critical services of FMIs, for example its ability to collect margin within T2 under an emergency platform. Finally, LCH SA maintains a crisis communication plan, which outlines the procedure for communicating with clearing members and partners in the event of a disruption.

With respect to each recovery tool identified, the RP also seeks to assess that each tool possesses the following characteristics: Comprehensive; effective, including as to reliability, timeliness; transparent, provides appropriate incentives, and results in a minimum negative impact. To confirm that each recovery tool does, in fact, have these characteristics, the RP considers as to each: The barriers or constraints within the tool itself; the steps and time to implement (if not already available as a tool); the likely effectiveness of the tool; any risk of execution; the potential impacts on participants and markets generally; the sequencing of the use of the tools where multiple tools may be required; and the legal basis of the tool. The RP also includes a qualitative and quantitative assessment to provide an indication of the likelihood and severity of a potential recovery situation and whether the tools included in the RP are adequate.

5. Governance Requirements

The creation of the RP and its approval is subject to a number of layers of governance approval. At a high level, the LCH SA Management Committee is responsible for the preparation of the RP and implementation of the monitoring and the recovery tools set forth in the RP. Before submission to the LCH SA Risk Committee, the RP is reviewed and validated by the Executive Risk Committee of LCH Group. The LCH SA Risk committee, which includes independent directors, then reviews, challenges (if needed), and recommends the RP for approval by the LCH SA board. Final approval of the RP rests with the LCH SA Board.

At a more granular level, the RP identifies the groups and individuals within LCH SA that are responsible for the various aspects of the RP.

A clearing member default will be managed in accordance with the relevant procedures. The Default Management Group (''DMG'') is responsible for the management of the default while all critical decisions are escalated and submitted to the LCH SA Default Crisis Management Team (''DCMT''). All decision which may lead to the triggering of recovery measures are subject to discussion in the DCMT and approval of the LCH SA CEO.

With respect to non-clearing member events, the management of those events will depend on the nature of the event. For example, investment losses and liquidity shortfalls are managed from a first line of defense, which attempts to control risks within the risk appetite parameters set by the Board, and then are escalated as appropriate. Operational risks are managed in accordance with the operational risk policy approved by the Board and reporting and second line challenges are performed by the operational risk department. Business risk is managed by individual business lines and requires frequent monitoring of results against budget and financial plans, with a second line challenge performed by the risk and finance departments to verify if sufficient capital buffers are available for the applicable business risks.

Upon the occurrence of a clearing member default, the recovery measures that will apply are clearly set forth in LCH SA's rulebook and LCH SA's CEO has the authority to trigger the different stages in the waterfall process, but will consult with DCMT and regulators prior to taking any action. In addition, the RP provides that the LCH SA will also activate an emergency board meeting for approval (if reasonably possible). Upon receipt of information relevant to a scenario causing non-default losses, the LCH SA management committee will consider whether a recommendation to formally invoke the RP should be made to the LCH SA Board. Upon receipt of a recommendation for action, the LCH SA Board will consider the information presented to determine if the RP should be formally invoked.

6. Plan Testing and Maintenance

The RP requires that LCH SA conduct testing and review of member default rules and associated procedures through the running of periodic ''fire drills'' which simulate member default scenarios. According to the RP, the fire drills are intended to simulate all aspects of a member default, including the auctioning of the defaulting members portfolio to non-defaulting members (where appropriate) and involves the participation of members and relevant functions within the LCH SA organization. Further, because one of the main scenarios contemplated under the RP is a clearing member default, the testing of this element (*i.e.* the tools to recover from uncovered credit losses or liquidity shortfalls arising from a member default) will be incorporated into each relevant fire drill cycle. As noted in the RP, LCH SA performs an annual multi-service fire drill and service specific fire drills are performed at least annually and testing for non-default events are incorporated into the fire drill regime as well. Should either the periodic testing or other change within LCH SA result in the need to amend the RP, the RP will be revised in accordance with the governance requirements identified above.

(b) Statutory Basis

LCH SA believes that the proposed rule change is consistent with the requirements of Section 17A of the Act and the regulations thereunder, including the standards under Rule 17Ad–22.[9]

Section 17A(b)(3)(F) of the Act [10] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions to assure safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and in general to protect investors and the public interest. LCH SA believes that the RP will permit it to initiate recovery upon the occurrence of certain trigger events to maintain continuity of critical services or orderly wind down in accordance with the applicable requirements of Rule 17Ad–22 [11] and LCH SA's rules. The RP is designed to formalize and set out the risk framework and measures that LCH SA will use to ensure its stability and recovery in the event of a crisis in order to be able to maintain its critical business processes and operations. Specifically, the RP would describe the LCH SA risk framework and process applicable to identify measure, monitor and manage the risks faced by LCH SA in the provision of clearing, settlement and risk management services when a crisis event occurs. The RP would serve as a means of addressing, credit risk, market risk, general business risk, operational risk, and other risks that may otherwise threaten the viability of LCH SA. The RP would also support the stability of LCH SA as a clearing house that is part of the broader financial markets and seeks to promote the protection of market participants from the risk of default by a clearing member of LCH SA or an unforeseen operational or business event that impacts LCH SA's continued functioning. The RP also facilitates the prompt clearance and settlement of the securities as it will enable LCH to levy additional resources to match the positions, limit the volume of fails and more generally avoid the market disruption that would be caused by the default of the CCP. The objective of the RP is to maintain the viability of the CCP and bring back the company to normal business, thereby ensuring that the securities and funds that the members have deposited as guarantees be fully returned to the market participants. In that regard, LCH SA believes that the RP supports the public interest, in line with Section 17A(b)(3)(F) [12] of the Act.

The RP would also be consistent with the specific relevant requirements of Rule 17Ad–22, including under 17Ad–22(e)(2) and (3) [13]. Rule 17Ad–22(e)(2) [14] provides that a covered clearing agency shall have governance arrangements that are clear and transparent and clearly prioritize the safety and efficiency of the covered clearing agency, to support the public interest requirements in Section 17A of the Act applicable to clearing agencies, and the objectives of owners and participants. LCH SA believes that the RP is consistent with these requirements. The RP includes extensive governance requirements that clearly identify the lines of responsibility with respect to the RP. As described above, at a high level, the LCH SA Management Committee is responsible for the preparation of the RP and implementation of the monitoring and the recovery tools set forth in the RP. The LCH SA Risk committee, which includes clearing member representatives, then reviews, challenges (if needed), and recommends the RP for approval by the LCH SA board. Final approval of the RP rests with the LCH SA Board, which includes, among other categories, non-executive Chair, independent directors and user directors. At a more granular level, the RP identifies the groups and individuals within LCH SA that are responsible for the various aspects of the RP. Therefore, LCH SA believes that the RP contains governance arrangements that are clear and transparent and clearly prioritize the safety and efficiency of the covered clearing agency, to support the public interest requirements and the objectives of owners and participants, and is,

[9] 17 CFR 240.17Ad–22.

[10] 15 U.S.C. 78q–1(b)(3)(F).

[11] 17 CFR 240.17Ad–22.

[12] 15 U.S.C. 78q–1(b)(3)(F).

[13] 17 CFR 240.17Ad–22(e)(2) and (3).

[14] 17 CFR 240.17Ad–22(e)(2).

therefore, consistent with the requirements of Rule 17Ad–22(e)(2).

Rule 17Ad–22(e)(3) [15] requires that a covered clearing agency maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, which must include plans for the recovery and orderly wind-down of the covered clearing agency necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses. The RP is designed to maintain the continuity of critical services in times of extreme stress and to facilitate the recovery of LCH SA in the event of extreme (loss) scenarios, as part of LCH SA's comprehensive risk management framework. As described above, the RP seeks to identify those services which could impact the continuity of LCH SA's operations, implement early warning indicators to identify potential recovery scenarios and define the triggers for initiating the RP, and clearly identify the recovery tools available under the RP. Accordingly, LCH SA believes the RP is consistent with Rule 17Ad–22(e)(3).[16]

B. Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[17] LCH SA does not believe the proposed rule change would impact or impose any burden on competition. The proposed rule change would establish and maintain LCH SA's RP in accordance with the CCA rules. The RP would not affect clearing member's access to services offered by LCH SA or impose any direct burden on clearing members. To the contrary, the RP seeks to identify the key risks and to establish appropriate recovery measures to ensure LCH SA's ability to operate in the event of an extreme loss. Accordingly, the proposed rule change would not unfairly inhibit market participants' access to LCH SA's services or disadvantage or favor any particular user in relationship to another user. Therefore, LCH SA does not believe that the proposed rule change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. LCH SA will notify the Commission of any written comments received by LCH SA.

D. Extension of Time Period for Commission Action

LCH SA does not consent to the extension of the time period listed in Section 19(b)(2) of the Securities Exchange Act of 1934 for Commission action.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–LCH SA–2019–008 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–LCH SA–2019–008. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of LCH SA and on LCH SA's website at *https://www.lch.com/resources/rules-and-regulations/proposed-rule-changes-0*. All comments received will be posted without change. Persons submitting comments arecautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–LCH SA–2019–008 and should be submitted on or before November 19, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–23552 Filed 10–28–19; 8:45 am]

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[15] 17 CFR 240.17Ad–22(e)(3).

[16] 17 CFR 240.17Ad–22(e)(3).

[17] 15 U.S.C. 78q–1(b)(3)(I).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 0–4, SEC File No. 270–569, OMB Control No. 3235–0633

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this collection of information to the Office of Management and Budget for extension and approval.

Rule 0–4 (17 CFR 275.0–4) under the Investment Advisers Act of 1940 (''Act'' or ''Advisers Act'') (15 U.S.C. 80b–1 *et seq.*) entitled ''General Requirements of Papers and Applications,'' prescribes general instructions for filing an application seeking exemptive relief with the Commission. Rule 0–4 currently requires that every application for an Order for which a form is not specifically prescribed and which is executed by a corporation, partnership or other company and filed with the Commission contain a statement of the applicable provisions of the articles of incorporation, bylaws or similar documents, relating to the right of the person signing and filing such application to take such action on behalf of the applicant, and a statement that all such requirements have been complied with and that the person signing and filing the application is fully authorized to do so. If such authorization is dependent on resolutions of stockholders, directors, or other bodies, such resolutions must be attached as an exhibit to or quoted in the application. Any amendment to the application must contain a similar statement as to the applicability of the original statement of authorization. When any application or amendment is signed by an agent or attorney, rule 0–4 requires that the power of attorney evidencing his authority to sign shall state the basis for the agent's authority and shall be filed with the Commission. Every application subject to rule 0–4 must be verified by the person executing the application by providing a notarized signature in substantially the form specified in the rule. Each application subject to rule 0–4 must state the reasons why the applicant is deemed to be entitled to the action requested with a reference to the provisions of the Act and rules thereunder, the name and address of each applicant, and the name and address of any person to whom any questions regarding the application should be directed. Rule 0–4 requires that a proposed notice of the proceeding initiated by the filing of the application accompany each application as an exhibit and, if necessary, be modified to reflect any amendment to the application.

The requirements of rule 0–4 are designed to provide Commission staff with the necessary information to assess whether granting the Orders of exemption are necessary and appropriate in the public interest and consistent with the protection of investors and the intended purposes of the Act.

Applicants for Orders under the Advisers Act can include registered investment advisers, affiliated persons of registered investment advisers, and entities seeking to avoid investment adviser status, among others. Commission staff estimates that it receives up to 4 applications per year submitted under rule 0–4 of the Act seeking relief from various provisions of the Advisers Act and, in addition, up to 3 applications per year submitted under Advisers Act rule 206(4)–5, which addresses certain ''pay to play'' practices and also provides the Commission the authority to grant applications seeking relief from certain of the rule's restrictions. Although each application typically is submitted on behalf of multiple applicants, the applicants in the vast majority of cases are related entities and are treated as a single respondent for purposes of this analysis. Most of the work of preparing an application is performed by outside counsel and, therefore, imposes no hourly burden on respondents. The cost outside counsel charges applicants depends on the complexity of the issues covered by the application and the time required. Based on conversations with applicants and attorneys, the cost for applications ranges from approximately $13,600 for preparing a well-precedented, routine (or otherwise less involved) application to approximately $212,800 to prepare a complex or novel application. We estimate that the Commission receives 1 of the most time-consuming applications annually, 3 applications of medium difficulty, and 3 of the least difficult applications subject to rule 0–4.[1] This distribution gives a total estimated annual cost burden to applicants of filing all applications of $392,500 [(1 × $212,800) + (3 × $46,300) + (3 × $13,600)]. The estimate of annual cost burden is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even representative survey or study of the costs of Commission rules and forms.

The requirements of this collection of information are required to obtain or retain benefits. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, C/O Candace Kenner, 100 F Street NE, Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

[1] The estimated 3 least difficult applications include the estimated 3 applications per year submitted under Advisers Act rule 206(4)–5.

Dated: October 24, 2019.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–23600 Filed 10–28–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87389; File No. SR–NYSECHX–2019–15]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish the NYSE Chicago BBO, NYSE Chicago Trades and NYSE Chicago Integrated Feed Market Data Feeds

October 23, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 18, 2019, NYSE Chicago, Inc. (''NYSE Chicago'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II.A, and II.C below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to establish the NYSE Chicago BBO (''NYSE Chicago BBO''), NYSE Chicago Trades (''NYSE Chicago Trades'') and NYSE Chicago Integrated Feed (''NYSE Chicago Integrated Feed'') market data feeds. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish NYSE Chicago BBO, NYSE Chicago Trades and NYSE Chicago Integrated Feed (''NYSE Chicago Market Data Feeds''). The Exchange recently got approval to decommission the Book Feed market data product when it transitions to the Pillar trading platform.[5] As proposed, once the Exchange transitions to the Pillar trading platform, it will offer the NYSE Chicago Market Data Feeds in lieu of the current Book Feed market data product. The Exchange believes that utilizing the standardized Pillar market data feeds across NYSE exchanges would create efficiencies for customer feed handlers.

The Exchange believes that the proposed NYSE Chicago Market Data Feeds will provide subscribers of the Book Feed market data product with the same scope of Exchange information once the Exchange transitions to Pillar, but with greater optionality. Subscribers that would like to continue to receive both order data (including depth of book) and last-sale data would be able to replace Book Feed with NYSE Chicago Integrated and would not need to separately subscribe to either NYSE Chicago BBO or NYSE Chicago Trades. Subscribers that do not need as much data could opt instead to subscribe to only NYSE Chicago BBO or NYSE Chicago Trades. In anticipation of the transition to the Pillar trading system, the Exchange has provided notice of the availability of the proposed market data products and related testing opportunities.[6]

NYSE Chicago BBO

NYSE Chicago BBO is a NYSE Chicago-only market data feed that would provide vendors and subscribers on a real-time basis with the same best-bid-and-offer information that NYSE Chicago reports under the Consolidated Quotation Plan (''CQ Plan'') and the Plan Governing the Collection, Consolidation, and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis (''UTP Plan''). NYSE Chicago BBO would include the best bids and offers (''NYSE Chicago BBO Information'') for all securities that are traded on the Exchange. NYSE Chicago will make the NYSE Chicago BBO available over a single datafeed, regardless of the markets on which the securities are listed.

NYSE Chicago BBO would allow vendors, broker-dealers, and others (''NYSE Chicago Vendors'') to consume and make available NYSE Chicago BBO Information on a real-time basis. NYSE Chicago Vendors may distribute the NYSE Chicago BBO to both professional and non-professional subscribers. The Exchange would make NYSE Chicago BBO Information available through the NYSE Chicago BBO datafeed no earlier than it makes that information available to the processor under the CQ Plan or the UTP Plan, as applicable.

NYSE Chicago Trades

NYSE Chicago Trades is a NYSE Chicago-only market data feed that would provide vendors and subscribers on a real-time basis with the same last sale information that NYSE Chicago reports under the Consolidated Tape Association Plan (''CTA Plan'') and the UTP Plan for inclusion in the consolidated feeds. NYSE Chicago Trades would include the real-time last sale price, time and size information (''NYSE Chicago Last Sale Information'') for all securities that are traded on the Exchange. NYSE Chicago will make the NYSE Chicago Trades available over a single datafeed, regardless of the markets on which the securities are listed.

NYSE Chicago Trades would allow NYSE Chicago Vendors to consume and make available NYSE Chicago Last Sale Information on a real-time basis. NYSE Chicago Vendors may distribute the NYSE Chicago Trades to both professional and non-professional subscribers. The Exchange would make NYSE Chicago Last Sale Information available through the NYSE Chicago Trades datafeed no earlier than it makes that information available to the processor under the CTA Plan or the UTP Plan, as applicable. In addition to the information that the Exchange provides to the processor, NYSE Chicago Last Sale Information will also include a unique sequence number that the Exchange assigns to each trade and that allows an investor to track the context of a trade through other Exchange market data products.

NYSE Chicago Integrated Feed

NYSE Chicago Integrated Feed is a NYSE Chicago-only market data feed that would provide vendors and subscribers on a real-time basis with a unified view of events, in sequence, as they appear on the NYSE Chicago matching engines. The NYSE Chicago Integrated Feed would include both top of book and depth of book order data, last sale data, and security status updates (*e.g.,* trade corrections and trading halts) and stock summary messages. The stock summary message would update every minute and would include the Exchange's aggregation of NYSE Chicago's opening price, high price, low price, closing price, and the cumulative volume for a security, which information is available to vendors and subscribers to calculate on their own should they so choose. The NYSE Chicago Integrated Feed would include

[5] *See* Securities Exchange Act Release No. 86709 (August 20, 2019), 84 FR 44654 (August 20, 2019) (SR–NYSECHX–2019–08) (Notice proposing trading rules to support the transition of trading to the Pillar trading platform, including proposing to delete Article 4, Rule 1, which currently describes the Book Feed, because it will not be offered once the Exchange transitions to Pillar); *see also* Securities Exchange Act Release No. 87264 (October 9, 2019) (SR–NYSECHX–2019–08) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Add Rules to Support the Transition of Trading to the Pillar Trading Platform).

[6] On August 16, 2019, the Exchange provided notice of the proposed NYSE Chicago Market Data Feeds, including that such feeds would be available to customers in shadow, *i.e.,* for testing, on September 16, 2019. *See* Trader Update *available here: https://www.nyse.com/trader-update/history#110000144335. See also* additional Trader Updates about the feeds, available here: *https://www.nyse.com/trader-update/history#110000137761;* and *https://www.nyse.com/trader-update/history#110000154859.*

information available to vendors and subscribers of both NYSE Chicago BBO and NYSE Chicago Trades, as described above.

As described in Article 4, Rule 1, the current Book Feed allows a subscriber to view all individual Participant orders displayed in the Matching System, including the size and price associated with such order and the trade data for executions that occur within the Matching System. When the Exchange transitions to Pillar, current subscribers to the Book Feed will be able to obtain the same scope of information via the proposed NYSE Chicago Integrated Feed. Accordingly, after the transition to Pillar, subscribers of Book Feed would still need only one data product to satisfy their data needs. The Exchange proposes to offer NYSE Chicago BBO and NYSE Chicago Trades to provide additional optionality to data subscribers that may not need the scope of data included in NYSE Chicago Integrated.

Offering an integrated product addresses requests received from vendors and subscribers that would like to receive the data described above in an integrated fashion. An integrated data feed would provide greater efficiencies and reduce errors for vendors and subscribers that currently choose to integrate the data after receiving it from the Exchange. The Exchange believes that providing vendors and subscribers with the option of a market data product that both integrates existing products and includes additional market data would allow vendors and subscribers to choose the best solution for their specific businesses.

The Exchange proposes to offer connectivity to the NYSE Chicago Market Data Feeds over the Liquidity Center Network and IP network, the local area networks available to users of the Exchange's co-location services in the Mahwah, New Jersey data center. The Exchange would also offer connectivity to the NYSE Chicago Market Data Feeds over the ICE Global Network, through which all other users and members access the Exchange's trading and execution systems and other proprietary market data products. In addition, the proposal would not permit unfair discrimination because the products will be available to all of the Exchange's customers and broker-dealers.

At this time, the Exchange does not intend to charge any fees associated with the receipt of NYSE Chicago BBO, NYSE Chicago Trades or NYSE Chicago Integrated Feed. The Exchange will submit a proposed rule change should it determine to charge fees associated with the receipt of NYSE Chicago BBO, NYSE Chicago Trades or NYSE Chicago Integrated Feed. Accordingly, subscribers of the current Book Feed product, which is also not subject to any fees, would not be subject to any additional fees in order to receive any of the proposed NYSE Chicago Market Data Feeds.

Subject to effectiveness of proposed rule changes, the NYSE Chicago Market Data Feeds will be available when the Exchange transitions to the Pillar trading platform.[7]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[8] of the Act (''Act''), in general, and furthers the objectives of Section 6(b)(5)[9] of the Act, in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and it is not designed to permit unfair discrimination among customers, brokers, or dealers. This proposal is in keeping with those principles in that it promotes increased transparency through the dissemination of the NYSE Chicago Market Data Feeds to those interested in receiving it.

The Exchange also believes this proposal is consistent with Section 6(b)(5) of the Act because it protects investors and the public interest and promotes just and equitable principles of trade by providing investors with new options for receiving market data as requested by market data vendors and purchasers. The proposed rule change would benefit investors by facilitating their prompt access to the real-time information contained in the NYSE Chicago Market Data Feeds. The Exchange further believes that the proposed NYSE Chicago Market Data Feeds would remove impediments to and perfect the mechanism of a free and open market and a national market system because once the Exchange transitions to the Pillar trading platform, current subscribers to the Book Feed market data product would be able to obtain the same level of data from NYSE Chicago Integrated without incurring any new fees.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Exchange believes that the NYSE Chicago Market Data Feeds are precisely the sort of market data products that the Commission envisioned when it adopted Regulation NMS. The Commission concluded that Regulation NMS would itself further the Act's goals of facilitating efficiency and competition:

> Efficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[10]

The Exchange further notes that the existence of alternatives to the Exchange's product, including real-time consolidated data, free delayed consolidated data, and proprietary data from other sources, as well as the continued availability of the Exchange's separate data feeds, ensures that the Exchange is not unreasonably discriminatory because vendors and subscribers can elect these alternatives as their individual business cases warrant.

The NYSE Chicago Market Data Feeds will help to protect a free and open market by providing additional data to the marketplace and by giving investors greater choices. In addition, the proposal would not permit unfair discrimination because the products will be available to all of the Exchange's customers and broker-dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[11] the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in

[7] The Exchange has announced that, subject to rule approvals, the Exchange will transition to trading on Pillar on November 4, 2019. *See* Trader Update, *available here: https://www.nyse.com/publicdocs/nyse/notifications/trader-update/NYSEChicago_Migration_update_9.4.pdf.*

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (Regulation NMS Adopting Release).

[11] 15 U.S.C. 78f(b)(8).

furtherance of the purposes of the Act. Because other exchanges already offer similar products, the Exchange's proposed NYSE Chicago Market Data Feeds will enhance competition. For example, NYSE Chicago BBO would provide an alternative to NYSE Arca BBO,[12] offered by the Exchange's affiliate, Arca, Inc. (''NYSE Arca''), Nasdaq Basic,[13] offered by The Nasdaq Stock Market, Inc. (''Nasdaq''), and Cboe Top,[14] offered by Cboe Global Markets, Inc. (''Cboe''). Additionally, NYSE Chicago Trades would provide an alternative to NYSE Arca Trades,[15] offered by NYSE Arca, Nasdaq Basic,[16] offered by Nasdaq, and Cboe Last Sale,[17] offered by Cboe. Finally, NYSE Chicago Integrated Feed would provide an alternative to NYSE Arca Integrated Feed,[18] offered by NYSE Arca, Nasdaq TotalView-Itch,[19] offered by Nasdaq, and Cboe Depth,[20] offered by Cboe.

The NYSE Chicago Market Data Feeds provide investors with new options for receiving market data, which was a primary goal of the market data amendments adopted by Regulation NMS.[21]

[12] *See* NYSE Arca BBO, *https://www.nyse.com/market-data/real-time/bbo* (provides best bid/ask quotations for all traded securities).

[13] *See* Nasdaq Basic, *http://www.nasdaqtrader.com/Trader.aspx?id=nasdaqbasic* (provides Best Bid and Offer and Last Sale Information).

[14] *See* Cboe Top, *https://markets.cboe.com/us/equities/market_data_products/* (provides real-time top-of-book quotations, matched trade price, volume and execution time).

[15] *See* NYSE Arca Trades, *https://www.nyse.com/market-data/real-time/trades* (provides real-time Last Sale information for all traded securities).

[16] *See* Nasdaq Basic, *http://www.nasdaqtrader.com/Trader.aspx?id=nasdaqbasic* (provides Best Bid and Offer and Last Sale Information).

[17] *See* Cboe Last Sale, *https://markets.cboe.com/us/equities/market_data_products/* (provides real-time matched trade price, volume and execution time).

[18] *See* NYSE Arca Integrated Feed, *https://www.nyse.com/market-data/real-time/integrated-feed* (provides a comprehensive order-by-order view of events in the equities market, including depth of book, trades, order imbalance data, and security status messages).

[19] *See* Nasdaq TotalView-ITCH, *http://www.nasdaqtrader.com/Trader.aspx?id=Totalview2* (displays the full order book depth for Nasdaq market participants and also disseminates the Net Order Imbalance Indicator (NOII) for the Nasdaq Opening and Closing Crosses and Nasdaq IPO/Halt Cross).

[20] *See* Cboe Depth, *https://markets.cboe.com/us/equities/market_data_products/* (provides real-time, depth-of-book quotations and execution information).

[21] *See supra* note 6 [sic], at 37503.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[22] and Rule 19b–4(f)(6) thereunder.[23]

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act[24] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[25] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange asserts that waiver of the operative delay would be consistent with the protection of investors and the public interest because it would allow the Exchange to provide the NYSE Chicago Market Data Feeds when it migrates to the Pillar platform. The Exchange notes that it has previously announced that, subject to rule approvals, it will transition to Pillar on November 4, 2019. The Exchange will provide the NYSE Chicago Market Data Feeds free of charge and they are comparable to feeds provided by other national securities exchanges.[26] Therefore, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[27]

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[24] 17 CFR 240.19b–4(f)(6).

[25] 17 CFR 240.19b–4(f)(6)(iii).

[26] *See supra* Section II.B.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSECHX–2019–15 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSECHX–2019–15. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official

[27] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSECHX–2019–15, andshould be submitted on or before November 19, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–23546 Filed 10–28–19; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87390; File No. SR–ISE–2019–26]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Market Maker Plus Program

October 23, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 10, 2019, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's Market Maker Plus program under Options 7, Section 3.

The text of the proposed rule change is available on the Exchange's website at *http://ise.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the qualifications for Market Makers to achieving Market Maker Plus status.

The Exchange initially filed the proposed pricing changes on October 1, 2019 (SR–ISE–2019–25). On October 10, 2019, the Exchange withdrew that filing and submitted this filing.

As set forth in Section 3 of the Pricing Schedule, the Exchange operates a Market Maker Plus program for regular orders in Select Symbols[3] that provides the below tiered rebates to Market Makers[4] based on time spent quoting at the National Best Bid or National Best Offer (''NBBO''). This program is designed to reward Market Makers that contribute to market quality by maintaining tight markets in Select Symbols.

SELECT SYMBOLS OTHER THAN SPY, QQQ, IWM, AMZN, FB, AND NVDA

Market Maker Plus tier (specified percentage)	Maker rebate
Tier 1 (80% to less than 85%)	($0.15)
Tier 2 (85% to less than 95%)	(0.18)
Tier 3 (95% or greater)	(0.22)

SPY, QQQ, AND IWM

Market Maker Plus tier (specified percentage)	Regular Maker rebate	Linked Maker rebate[5]
Tier 1 (70% to less than 80%)	($0.00)	N/A
Tier 2 (80% to less than 85%)	(0.18)	(0.15)
Tier 3 (85% to less than 90%)	(0.22)	(0.19)
Tier 4 (90% or greater)	(0.26)	(0.23)

[28] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ''Select Symbols'' are options overlying all symbols listed on the Nasdaq ISE that are in the Penny Pilot Program.

[4] The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. *See* Options 1, Section 1(a)(20).

[5] To encourage Market Makers to maintain quality markets in SPY, QQQ, and IWM in particular, members that maintain tight markets in those symbols are eligible for higher regular maker rebates and may also be eligible for linked maker rebates, as shown in the table above. Specifically, the following symbols are linked for purposes of the linked maker rebate: (1) SPY and QQQ, and (2) SPY and IWM. Market Makers that qualify for Market Maker Plus Tiers 2–4 above for executions in SPY, QQQ, or IWM may be eligible for a linked maker rebate in a linked symbol in addition to the regular maker rebate for the applicable tier. The linked maker rebate applies to executions in SPY, QQQ, or IWM if the Market Maker does not achieve the applicable tier in that symbol but achieves the tier (*i.e.,* any of Market Maker Plus Tiers 2–4) for any badge/suffix combination in the other linked symbol, in which case the higher tier achieved applies to both symbols. If a Market Maker would qualify for a linked maker rebate in SPY based on the tier achieved in QQQ and the tier achieved in IWM then the higher of the two linked maker rebates will be applied to SPY. The regular maker rebate will be provided in the symbol that qualifies the Market Maker for the higher tier based on percentage of time at the NBBO.

AMZN, FB, AND NVDA

Market Maker Plus tier (specified percentage)	Maker rebate [6]
Tier 1 (70% to less than 85%)	($0.15)
Tier 2 (85% to less than 95%)	(0.18)
Tier 3 (95% or greater)	(0.22)

Market Makers are evaluated each trading day for the percentage of time spent on the NBBO for qualifying series that expire in two successive thirty calendar day periods beginning on that trading day. A Market Maker Plus is a Market Maker who is on the NBBO a specified percentage of the time on average for the month based on daily performance in the qualifying series for each of the two successive periods described above. Qualifying series are series trading between $0.03 and $3.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to $100) and between $0.10 and $3.00 (for options whose underlying stock's previous trading day's last sale price was greater than $100) in premium. If a Market Maker would qualify for a different Market Maker Plus tier in each of the two successive 30 calendar day periods, then the lower of the two Market Maker Plus tier rebates shall apply to all contracts.[7] A Market Maker's worst quoting day each month for each of the two successive periods described above, on a per symbol basis, is excluded in calculating whether a Market Maker qualifies for this rebate.[8]

While the Exchange believes that the Market Maker Plus program has been successful overall in encouraging better market quality in Select Symbols, the Exchange has also observed that in extremely volatile months, Market Makers are less likely to meet the stringent Market Maker Plus tier qualifications for that month because they are unable to hit the tiers as easily. The Exchange therefore proposes to change its Market Maker Plus qualifications to avoid penalizing Market Makers that have historically contributed to market quality on the Exchange. In particular, the Exchange proposes that a Market Maker who qualifies for Market Maker Plus Tiers 2 or higher in at least four of the previous six months will be eligible to receive a reduced Tier 2 rebate in a given month where the Market Maker does not qualify for any Market Maker Plus Tiers.[9] This rebate will be the applicable Tier 2 rebate reduced by $0.08 per contract (*i.e.,* $0.10 per contract for the regular maker rebate or $0.07 per contract for the linked maker rebate).

For example, Market Maker 1 (''MM 1'') meets the SPY Market Maker Plus Tier 2 level in all of the previous 6 months. In the current month, there is a significant increase in volatility and MM 1 is unable to meet the stringent Market Maker Plus requirements within the month. With the proposal, MM 1 would receive a reduced rebate of $0.10 per contract (*i.e.,* the SPY Tier 2 $0.18 per contract rebate reduced by $0.08 per contract) in the current month based on meeting the Market Maker Plus Tier 2 qualifications in SPY for at least 4 out of the previous six months.

Applicability to and Impact on Participants

With the proposed changes, the Exchange seeks to avoid penalizing historically strong Market Maker Plus program participants in similar situations as the one outlined above, thereby easing the burden on Market Makers to maintain their Market Maker Plus qualification, which ultimately will fortify its Market Maker Plus program. Of course, the Market Maker would still need to meet the stringent requirements of the applicable Market Maker Plus Tier 2 qualifications[10] at least four of the six previous months in order to glean the benefits of the reduced rebate proposed above. The Market Maker would also need to meet the rigorous Tier 2 qualifications each month going forward to maintain the four-month cushion in order to gather the proposed rebate benefits. By fortifying participation in this program, the Exchange believes that the proposed changes will continue to encourage Market Makers to post tight markets in Select Symbols, thereby improving trading conditions for all market participants through narrower bid-ask spreads and increased depth of liquidity available at the inside market.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[12] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed changes to its Market Maker Plus program is reasonable and equitable for several reasons. As a threshold matter, the Exchange is

[6] Market Makers that qualify for Market Maker Plus Tiers 1–3 above for executions in two out of the three symbols AMZN, FB, or NVDA will be eligible for a maker rebate in the third symbol, in addition to the maker rebate for the applicable tier in the other two symbols. The maker rebate will apply to executions in AMZN, FB, or NVDA if the Market Maker does not achieve the applicable tier in that symbol but achieves the tier (*i.e.,* any of Market Maker Plus Tiers 1–3) for any badge/suffix combination in the other two symbols. If a Market Maker would qualify for different Market Maker Plus Tiers 1–3 in two symbols, then the lower of the two maker rebates will be applied to the third symbol (*e.g.,* Market Maker Plus qualification in Tier 1 and Tier 2 across two symbols would earn Market Maker Plus Tier 1 in the third symbol). If all three symbols separately achieve any of the Market Maker Plus Tiers 1–3, the symbol that achieves the tier with the lowest maker rebate will instead receive the same maker rebate as the symbol that achieved the next lowest tier.

[7] Market Makers may enter quotes in a symbol using one or more unique, exchange assigned identifiers—*i.e.,* badge/suffix combinations. Market Maker Plus status is calculated independently based on quotes entered in a symbol for each of the Market Maker's badge/suffix combinations, and the highest tier achieved for any badge/suffix combination quoting that symbol applies to executions across all badge/suffix combinations that the member uses to trade in that symbol. Only badge/suffix combinations quoting a minimum of ten trading days within the month will be used to determine whether the Market Maker Plus status has been met and the specific tier to be applied to the Market Maker's performance for that month.

[8] In addition, the Exchange may exclude from any member's monthly Market Maker Plus tier calculation any Unanticipated Event; provided that the Exchange will only remove the day for members that would have a lower time at the NBBO for the specified series with the day included. *See* Options 7, Section 1(a)(2) for the definition of ''Unanticipated Event.''

[9] Except in SPY, QQQ, and IWM, if a Market Maker qualifies for Market Maker Plus Tier 1 in a given month after qualifying for Tier 2 or higher in at least four of the previous six months, the Market Maker would receive the higher $0.15 per contract Tier 1 rebate for that month instead of a reduced Tier 2 rebate of $0.10 per contract. Today, the Exchange does not provide any rebates to Market Makers for meeting the Market Maker Plus Tier 1 qualifications in SPY, QQQ IWM. *See* Options 7, Section 3, note 5.

[10] Thus, a Market Maker would need to be on the NBBO at least 80% of the time (*i.e.,* Tier 2 or higher) for SPY, QQQ, and IWM, and at least 85% of the time for all other Select Symbols.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4) and (5).

subject to significant competitive forces in the market for options transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''[13]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for options transaction services. The Exchange is only one of sixteen options exchanges to which market participants may direct their order flow. Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules.

Within the foregoing context, the proposal represents a reasonable attempt by the Exchange to increase its liquidity and market share relative to its competitors. As noted above, the Exchange's proposal is intended to fortify participation in the Market Maker Plus program, which the Exchange believes has been successful overall in encouraging better market quality in Select Symbols. The Exchange believes that further encouraging Market Makers to maintain tight markets in Select Symbols will increase liquidity and attract additional order flow to the Exchange, which benefits all market participants in the quality of order interaction.

In particular, the Exchange's proposal to provide a reduced rebate to Market Makers who do not qualify for any Market Maker Plus tiers in a given month, but qualified for Market Maker Plus Tier 2 or higher in at least four of the previous six months preserves the intent of the Market Maker Plus program to reward Market Makers who contribute to market quality by maintaining tight markets based on time spent quoting at the NBBO. The Exchange proposes to provide the reduced rebate to Market Makers that qualified for Market Maker Plus Tier 2 or higher in the requisite time period as opposed to Market Maker Plus Tier 1 because Tier 1 currently does not provide rebates to qualifying Market Makers across all Select Symbols.[14]

As discussed above, the Exchange has observed that in extremely volatile months, Market Makers are less likely to meet the stringent Market Maker Plus tier qualifications for that month because they are unable to hit the tiers as easily. For example, the Exchange observed a decrease in Market Maker Plus program participation concurrent with increased volatility in August 2019. In particular, in July 2019, around 41% of the total number of ISE Market Makers had qualified for Market Maker Plus Tier 2 in any Select Symbol. In August 2019, the Exchange saw this percentage drop to less than 30%. Had the proposed changes been in place for August 2019, around 47% of all ISE Market Makers would have qualified for Tier 2 using the 6-month look-back period. Given the foregoing, the Exchange seeks to avoid penalizing Market Makers that have historically been strong participants in the Exchange's Market Maker Plus program by easing the burden on these Market Makers to maintain their Market Maker Plus qualification.

The Exchange believes that the proposed ''lookback'' period of at least four out of the previous six months is an appropriate measure of strong past performance in the Market Maker Plus program as it requires Market Makers to meet the stringent requirements of Market Maker Plus Tier 2 or higher for a significant period of time in order to receive the reduced rebates.[15] Furthermore, the Market Maker would also need to meet the rigorous Tier 2 qualifications each month going forward to maintain the four month cushion in order to glean the proposed rebate benefits. The Exchange also believes the proposed reduction of the applicable Tier 2 rebate by $0.08 per contract[16] is set at an appropriate level that is lower than any Market Maker Plus tiered rebate that a Market Maker would normally receive while still providing enough of a cushion that avoids penalizing historically strong Market Maker Plus program participants.

Accordingly, the Exchange believes that its proposal is reasonable and equitable because the modified criteria will continue to require Market Makers to quote significantly at the NBBO, thereby continuing to contribute to market quality in a meaningful way. In fact, with the proposed changes, the Exchange will fortify participation in the Market Maker Plus program by helping ensure that historically strong program participants continue to participate and qualify as Market Maker Plus, which will further improve market quality.

The Exchange believes that the proposed changes to the qualifications to Market Maker Plus are not unfairly discriminatory as all Market Makers will be subject to the same qualification criteria for Market Maker Plus. The Exchange also continues to believe that it is not unfairly discriminatory to offer rebates under this program to only Market Makers. Market Makers, and in particular, those Market Makers that participate in the Market Maker Plus Program and achieve Market Maker Plus status, add value through continuous quoting and are subject to additional requirements and obligations (such as quoting obligations) that other market participants are not. Finally, the Exchange believes that the proposed changes will continue to encourage Market Makers to post tight markets in Select Symbols, thereby increasing liquidity and attracting additional order flow to the Exchange, which benefits all market participants in the quality of order interaction.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Intra-Market Competition

The proposed amendments to the Exchange's Market Maker Plus program described above do not impose an undue burden on intra-market competition. While the proposal would apply directly to those Market Makers that achieve the Market Maker Plus Tier 2 standards described above, the Exchange believes that the proposed changes will fortify and encourage participation in the Market Maker Plus program, ultimately to the benefit of all market participants. As discussed

[13] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[14] In particular, Market Makers that qualify for Market Maker Plus Tier 1 in SPY, QQQ or IWM currently do not receive any rebates, so it would not be feasible to apply the proposed reduction of $0.08 to those symbols at the Tier 1 level.

[15] *See supra* note 10.

[16] Thus, with the proposed changes, the reduced rebate would be $0.10 per contract for the regular maker rebate (*i.e.,* the $0.18 per contract regular Tier 2 maker rebate reduced by $0.08 per contract), and $0.07 per contract for the linked maker rebate (*i.e.,* the $0.15 per contract linked Tier 2 maker rebate reduced by $0.08 per contract).

above, the Exchange believes that the proposed changes will continue to encourage all Market Makers to improve market quality by providing significant quoting at the NBBO in Select Symbols, which in turn improves trading conditions for all market participants through narrower bid-ask spreads and increased depth of liquidity available at the inside market, thereby attracting additional order flow to the Exchange. For these reasons, the Exchange does not believe that its proposal will place any category of Exchange market participant at a competitive disadvantage.

Inter-Market Competition

The proposed changes are designed to ensure that the goals of the Exchange's Market Maker Plus program are furthered by fortifying participation in the program and to avoid penalizing Market Makers that have historically made quality markets in Select Symbols for a significant amount of time. The Exchange operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. Moreover, as noted above, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and rebate changes. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [17] and paragraph (f)(2) of Rule 19b-4 thereunder.[18] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml);* or

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2019–26 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2019–26. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2019–26 and should be submitted on or before November 19, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Jill M. Peterson,

Assistant Secretary.

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[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(2).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87386; File No. SR–OCC–2019–009]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Related to Proposed Changes to The Options Clearing Corporation's Rules, Clearing Fund Methodology Policy, and Clearing Fund and Stress Testing Methodology

October 23, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 10, 2019, the Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change is filed in connection with proposed enhancements to OCC's Clearing Fund and stress testing rules and methodology designed to: (1)

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Incorporate a new set of stress test scenarios to be used in the monthly sizing of OCC's Clearing Fund that are designed to capture the risks of extreme moves in individual or small subsets of securities; (2) enhance OCC's stress testing methodology for modeling certain volatility index futures; (3) modify OCC's methodology for allocating Clearing Fund contribution requirements to standardize the margin risk component of the allocation formula for all Clearing Members; (4) adopt an additional threshold for notifying senior management of intra-day margin calls based on certain stress test results; (5) correct certain rules concerning OCC's cooling-off period and replenishment/assessment powers; and (6) make other clarifying and conforming changes to OCC's Rules, Clearing Fund Methodology Policy (''Policy''), and Stress Testing and Clearing Fund Methodology Description (''Methodology Description'')

The proposed amendments to OCC's Rules can be found in Exhibit 5A.[3] Proposed changes to the Policy can be found in Exhibit 5B. Proposed changes to the Methodology Description can be found in Exhibit 5C. Material proposed to be added to the Rules, Policy, and Methodology Description as currently in effect is marked by underlining, and material proposed to be deleted is marked in strikethrough text.[4] The proposed changes are described in detail in Item II below.

The proposed rule change is available on OCC's website at *https://www.theocc.com/about/publications/bylaws.jsp.* All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.[5]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

A. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

In September 2018, OCC implemented new rules for sizing and monitoring its Clearing Fund and overall Pre-Funded Financial Resources,[6] which included the adoption of a new Policy and Methodology Description.[7] Under the requirements of the Policy, OCC bases its determination of the Clearing Fund size on the results of stress tests conducted daily using standard predetermined parameters and assumptions. These daily stress tests consider a range of relevant stress scenarios and possible price changes in liquidation periods, including but not limited to: (1) Relevant peak historic price volatilities; (2) shifts in other market factors including, as appropriate, price determinants and yield curves; and (3) the default of one or multiple Clearing Members. OCC also conducts reverse stress tests for informational purposes aimed at identifying extreme default scenarios and extreme market conditions for which the OCC's financial resources may be insufficient.

As described in the Methodology Description, the newly adopted methodology includes two types of scenarios: ''Historical Scenarios'' and ''Hypothetical Scenarios.'' Historical Scenarios intend to replicate historical events in current market conditions, which includes the set of currently existing securities, their prices, and volatility levels. These scenarios provide OCC with information regarding pre-defined reference points determined to be relevant benchmarks for assessing OCC's exposure to Clearing Members and the adequacy of its financial resources. Hypothetical Scenarios represent events in which market conditions change in ways that have not yet been observed. The Hypothetical Scenarios are derived using statistical methods (*e.g.,* draws from estimated multivariate distributions) or created based on a mix of statistical techniques and expert judgment (*e.g.,* a 15% decline in market prices and 50% increase in volatility). These scenarios give OCC the ability to change the distribution and level of stress in ways necessary to produce an effective forward-looking stress testing methodology. OCC uses these pre-determined stress scenarios in stress tests, conducted on a daily basis, to determine OCC's risk exposure to each Clearing Member Group by simulating the profits and losses of the positions in their respective account portfolios under each such stress scenario.

Under the Policy and Methodology Description, OCC performs daily stress testing using a wide range of scenarios, both Hypothetical and Historical, designed to serve multiple purposes. OCC's proposed stress testing inventory contains scenarios designed to: (1) Determine whether the financial resources collected from all Clearing Members collectively are adequate to cover OCC's risk tolerance (''Adequacy Scenarios,'' and such scenarios collectively constituting ''Adequacy Stress Tests''); (2) establish the monthly size of the Clearing Fund necessary for OCC to maintain sufficient Pre-Funded Financial Resources to cover losses arising from the default of the two Clearing Member Groups that would potentially cause the largest aggregate credit exposure to OCC as a result of a 1-in-80 year hypothetical market event (''Sizing Scenarios,'' and such scenarios collectively constituting ''Sizing Stress Tests''); (3) measure the exposure of the Clearing Fund to the portfolios of individual Clearing Member Groups, and determine whether any such exposure is sufficiently large as to necessitate OCC calling for additional resources so that OCC continues to maintain sufficient financial resources to guard against potential losses under a wide range of stress scenarios, including extreme but plausible market conditions (''Sufficiency Scenarios,'' and such scenarios collectively constituting ''Sufficiency Stress Tests'');[8] and (4) monitor and assess the

[3] The Commission notes that exhibits referenced herein are included in the filing submitted by OCC to the Commission, but are not included in this Notice.

[4] OCC also has filed an advance notice with the Commission in connection with the proposed changes. *See* SR–OCC–2019–806.

[5] OCC's By-Laws and Rules can be found on OCC's public website: *http://optionsclearing.com/about/publications/bylaws.jsp.*

[6] The Policy defines OCC's ''Pre-Funded Financial Resources'' to mean margin of the defaulted Clearing Member and the required Clearing Fund less any deficits, exclusive of OCC's assessment powers.

[7] On July 26, 2018, the Commission issued a Notice of No Objection to an advance notice by OCC concerning the adoption of a new stress testing and Clearing Fund methodology. *See* Securities Exchange Act Release No. 83714 (July 26, 2018), 83 FR 37570 (August 1, 2018) (SR–OCC–2018–803). On July 27, 2018, the Commission approved a proposed rule change by OCC concerning the same proposal. *See* Securities Exchange Act Release No. 83735 (July 27, 2018), 83 FR 37855 (August 2, 2018) (SR–OCC–2018–008).

[8] Under OCC Rule 609, the Policy, and the Methodology Description, if a Sufficiency Stress Test identifies exposures that exceed 75% of the current Clearing Fund requirement less deficits (the ''75% threshold'' or ''Sufficiency Stress Test Threshold 1''), OCC may require additional margin deposits from the Clearing Member Group(s) driving the breach. All such margin calls must be approved by a Vice President (or higher) of OCC's Financial Risk Management department (''FRM''); however, if the margin call imposed on an individual Clearing Member exceeds $500 million, OCC's Stress Testing and Liquidity Risk

size of OCC's Pre-Funded Financial Resources against a wide range of stress scenarios that may include extreme but implausible and reverse stress testing scenarios (''Informational Scenarios,'' and such scenarios collectively constituting ''Informational Stress Tests'').[9]

In addition, under the Rules, Policy, and Methodology Description, individual Clearing Members' Clearing Fund contribution requirements are determined using a risk-based allocation methodology of 70% ''total risk,'' 15% volume, and 15% open interest using a one-month look-back period. For purposes of allocating Clearing Fund contributions, ''total risk'' is defined to mean the margin requirement calculated and reported by OCC with respect to all accounts of a Clearing Member less the net asset value of the positions in such accounts aggregated across all such accounts.

Proposed Changes

OCC proposes to enhance its Clearing Fund and stress testing framework by: (1) Adopting a new set of stress scenarios to be used in the monthly sizing of OCC's Clearing Fund that are designed to capture the risks of extreme moves in individual or small subsets of securities (''Idiosyncratic Scenarios''); (2) improving its model for determining price shocks for futures on the Cboe Volatility Index (''VIX'')[10] (such futures contracts hereinafter referred to as ''VIX futures''); (3) modifying the methodology for allocating Clearing Fund contribution requirements to standardize the margin risk component of the allocation formula for all Clearing Members; (4) adopting an additional threshold for notifying senior management of certain intra-day margin calls based on Sufficiency Stress Test results; (5) correcting certain rules concerning OCC's cooling-off period and replenishment/assessment powers; and (6) making certain other clarifying and conforming changes to OCC's Rules, Policy, and Methodology Description. The proposed changes are described in detail below.

1. Introduction of Idiosyncratic Scenarios in Sizing Stress Tests

OCC proposes to revise its Policy and Methodology Description to incorporate into its inventory of Sizing Stress Tests a new set of Idiosyncratic Scenarios that are designed to capture the risks of extreme moves in individual or small subsets of securities. As noted above, OCC's Sizing Stress Tests are used to establish the monthly size of the Clearing Fund necessary for OCC to maintain sufficient Pre-Funded Financial Resources to cover losses arising from the default of the two Clearing Member Groups that would potentially cause the largest aggregate credit exposure to OCC in extreme but plausible market conditions. The proposed Idiosyncratic Scenarios would supplement OCC's current set of Sizing Scenarios (which are generally designed to estimate risk exposures arising from more broad-based market and systemic shocks (''Systemic Scenarios'') and would allow OCC to identify forward-looking, non-systemic market events that may impact its Pre-Funded Financial Resource requirements. Like other Sizing Scenarios, the proposed Idiosyncratic Scenarios may be used to determine the monthly size of Clearing Fund when projected exposures from the Idiosyncratic Scenarios are greater than OCC's other Sizing Scenarios.

The proposed Idiosyncratic Scenarios are designed to capture the risk of extreme non-systemic market moves on single-name securities through individual rally and decline shocks. Under the proposed methodology for Idiosyncratic Scenarios, every single-name equity (*i.e.,* excluding exchange-traded funds, exchange-traded notes, indices, and non-equity products) in a portfolio is shocked by a fixed extreme idiosyncratic up and down move. In order to determine these fixed shocks, single-name equities would be classified as either large or small capitalization (referred to herein as ''large cap'' and ''small cap,'' respectively) and the shocks would be constructed based on the market capitalization classification and direction of the price (*e.g.,* the four potential idiosyncratic moves would be large cap up, large cap down, small cap up, and small cap down. The fixed price shocks would be calibrated from historical price return data such that the probability of the idiosyncratic moves is comparable to OCC's Systemic Sizing Scenarios and the probability in all four scenarios would be approximately equal. The profit and loss (P/L) contribution for each name is then calculated for the portfolio using both up and down moves, and the worst loss from the two P/L moves is chosen as the direction of the idiosyncratic move for each name. Next, the four names with the worst P/L (along with the direction of extreme move) are chosen for the portfolio, providing the four names for every portfolio within a Clearing Member Group. Then the risk exposure (P/L) is aggregated at the Clearing Member Group-level using each set of four names. The worst shortfall generated is the idiosyncratic risk of the Clearing Member Group, and the largest two Clearing Member Group exposures are used to determine the Cover 2 Idiosyncratic Scenario Clearing Fund size.

OCC believes that implementing the proposed Idiosyncratic Scenarios would enhance OCC's stress testing methodology and overall resiliency by providing a more comprehensive suite of Sizing Stress Tests to ensure that OCC maintains an appropriate level of Pre-Funded Financial Resources to cover its credit exposures under scenarios addressing both systemic market risks and idiosyncratic risks.

2. Enhancements for Modeling Shocks on VIX Futures

OCC also proposes to enhance its methodology for modeling price shocks for VIX futures. Under OCC's current stress testing methodology, prices shocks for VIX futures are equivalent to the price shock for the underlying VIX index. OCC believes that this approach is unrealistic in that it produces a uniform shock across expirations of the VIX futures contract, which leads to an overestimation of VIX futures price shocks, particularly in market decline scenarios. Futures contracts for different expirations generally trade at different prices reflecting the differing future price expectations of the underlying asset.[11] Accordingly, OCC believes that the size of the price shocks produced by its stress testing methodology should

Management group (''STLRM'') must provide written notification to OCC's Executive Chairman, Chief Executive Officer, and Chief Operating Officer (collectively referred to as the ''Office of the Chief Executive Officer'' or ''OCEO''). Additionally, under Rule 1001(c) (and as described in the Policy and Methodology Description), if a Sufficiency Stress Test were to identify a Clearing Fund Draw for any one or two Clearing Member Groups that exceed 90% of the current Clearing Fund size (after subtracting any monies deposited as a result of a margin call in accordance with a breach of Sufficiency Stress Test Threshold 1), OCC has the authority to effect an intra-month resizing of the Clearing Fund to ensure that it continues to maintain sufficient prefunded financial resources. *See supra* note 7.

[9] OCC notes that its Adequacy and Informational Stress Tests are not used to size the Clearing Fund or drive calls for additional financial resources.

[10] The VIX is an index designed to measure the 30-day expected volatility of the Standard & Poor's 500 index (''SPX'').

[11] When there is a large shock to the VIX it has consistently been observed that the change in price of near-term VIX future contracts is much larger than for further out expirations. For instance, on 2/5/2018 when the near-term VIX future contract expiring on 2/16/2018 increased by 113% the following standard expirations increased by less: 87% for 3/21/2018; 64% for 4/18/2018; 37% for 5/16/2018; and less than 30% for all further expirations. For all other days within the past 5 years with one-day VIX increases of over 45%, similar patterns were observed of a decreasing VIX future term structure of shocks (8/21/2015, 8/24/2015, 6/24/2016 and 5/17/2017).

vary based on the expiration of each contract as is more realistically observed in the market.

OCC proposes to enhance its stress testing methodology (and specifically, Section 3.4 of the Methodology Description) by using SPX at-the-money implied volatility shocks across different expirations to model forward volatility to generate shocks for VIX futures contracts for the corresponding expirations. OCC believes the proposed model enhancements would produce more appropriate VIX futures price shocks in its stress scenarios because it would produce differing price shocks across the term structure as is generally observed in the market.[12] For example, OCC has observed that VIX futures price shocks obtained from the enhanced model for varying expirations is similar to the actual VIX futures market prices when tested on historical stress periods. Additionally, because VIX futures are used to calculate theoretical values for VIX options, OCC believes the proposed enhancement would improve the pricing of both VIX futures and VIX options in OCC's stress testing methodology.

3. Modifications to Clearing Fund Allocation Weighting Methodology

OCC proposes to modify its allocation methodology for determining individual Clearing Members' Clearing Fund requirements. As part of OCC's recently adopted stress testing and Clearing Fund methodology, OCC moved to a more risk-based method for allocating Clearing Fund requirements.[13] Clearing Fund allocations are currently based on a weighting of 70% margin risk, 15% open interest, and 15% cleared volume. The margin risk component of the allocation formula, known as ''total risk,'' is based on the total margin requirement calculated and reported by OCC with respect to all accounts of a Clearing Member less the net asset value of the positions in such accounts aggregated across all such accounts over a one-month look-back period compared to the aggregate of total risk across all Clearing Members.[14] While the majority of margin requirements used in the allocation formula are STANS-based margin requirements,[15] certain Clearing Members' accounts (and thus their allocations) are more heavily impacted by margin requirements calculated using the Standard Portfolio Analysis of Risk Margin Calculation System (''SPAN'') that reflects customer gross margining, which may result in higher risk charges than net margining with STANS for the same account.[16]

OCC proposes to standardize the margin or ''total risk'' component of its Clearing Fund allocation formula for all members by using only the STANS base amount, plus certain add-on charges [17] as may be determined by OCC pursuant to its policies and procedures. OCC believes it is more appropriate to use the same margin risk measurement for all Clearing Members/accounts when determining Clearing Fund allocations since this allows for a more equitable comparison across all accounts through the utilization of a consistent margin methodology. Accordingly, OCC proposes to modify the definition of ''total risk'' in Rule 1003(b)(i) to mean ''a risk measure aggregated across all accounts of a Clearing Member determined using the Corporation's margin methodology and such add-on charges as may be determined pursuant to the Corporation's policies and procedures.'' OCC also proposes to make conforming to changes to its Policy and Methodology Description to reflect the new definition of ''total risk.''

4. New Sufficiency Stress Test Notification Threshold

OCC also proposes to adopt a new internal notification threshold for intra-day margin calls resulting from its Sufficiency Stress Tests. Under existing Rule 609, the Policy, and the Methodology Description, if a Sufficiency Stress Test identifies a Clearing Fund Draw [18] for any one or two Clearing Member Groups that exceeds Sufficiency Stress Test Threshold 1, OCC is authorized to issue a margin call against the Clearing Member Group(s) and/or Clearing Member(s) causing the breach.[19] All Sufficiency Stress Test margin calls are required to be approved by a Vice President (or higher) of FRM; however, if the margin call imposed on an individual Clearing Member exceeds $500 million, the STLRM group must provide written notification to the Office of the CEO. If the margin call imposed on an individual Clearing Member would exceed 100% an individual Clearing Member's net capital, the issue is then escalated to the Office of the CEO, and each of the Executive Chairman, Chief Executive Officer, and Chief Operating Officer have the authority to determine whether OCC should continue calling for additional margin in excess of this amount.

OCC proposes to revise the Policy to require that STLRM provide written notification to the Office of the CEO whenever a Sufficiency Stress Test margin call imposed on an individual Clearing Member exceeds 75% of the Clearing Member's excess net capital (in addition to the current requirement to provide notification for any margin call exceeding $500 million). OCC believes that this additional notification requirement is appropriate because it will allow OCC's senior management to be informed as soon as practicable of, and to subsequently monitor, circumstances where a margin call may strain a particular Clearing Member's ability to meet such requirements based on its financial condition or the amount of collateral it has available to pledge when certain pre-identified thresholds have been exceeded.[20]

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[12] *Id.*

[13] *See supra* note 7.

[14] *See* OCC Rule 1003(b)(i). OCC removes net asset value from the ''total risk'' component of the allocation formula because it does not reflect a risk measure but rather represents the value of contracts and collateral held in a Clearing Member's accounts.

[15] The System for Theoretical Analysis and Numerical Simulations (or ''STANS'') is OCC's proprietary risk management system for calculating Clearing Member margin requirements. *See* Securities Exchange Act Release No. 53322 (February 15, 2006), 71 FR 9403 (February 23, 2006) (SR–OCC–2004–20). A detailed description of the STANS methodology is available at *http://optionsclearing.com/risk-management/margins/*.

[16] Pursuant to OCC Rule 601(e)(1), in additions to STANS-based requirements, OCC calculates initial margin requirements for segregated futures accounts on a gross basis using SPAN. Commodity Futures Trading Commission (''CFTC'') Rule 39.13(g)(8), requires, in relevant part, that derivatives clearing organizations (''DCOs'') collect initial margin for customer segregated futures accounts on a gross basis. While OCC uses SPAN to calculate initial margin requirements for segregated futures accounts on a gross basis, OCC believes that margin requirements calculated on a net basis (*i.e.,* permitting offsets between different customers' positions held by a Clearing Member in a segregated futures account using STANS) affords OCC additional protections at the clearinghouse level against risks associated with liquidating a Clearing Member's segregated futures account. As a result, OCC calculates margin requirements for segregated futures accounts using both SPAN on a gross basis and STANS on a net basis, and if at any time OCC staff observes a segregated futures account where initial margin calculated pursuant to STANS on a net basis exceeds the initial margin calculated pursuant to SPAN on a gross basis, OCC collateralizes this risk exposure by applying an additional margin charge in the amount of such difference to the account. *See* Securities Exchange Act Release No. 72331 (June 5, 2014), 79 FR 33607 (June 11, 2014) (SR–OCC–2014–13). SPAN is a methodology developed by the Chicago Mercantile Exchange and used by many clearinghouses and exchanges around the world to calculate margin requirements on futures and options on futures.

[17] Under OCC's Margin Policy, OCC may collateralize certain exposures that may be modeled outside of STANS using add-on charges.

[18] The term ''Clearing Fund Draw'' refers to an estimated stress loss exposure in excess of margin requirements.

[19] *See supra* notes 7 and 8.

[20] For example, if a Sufficiency Stress Test margin call imposed on an individual Clearing Member exceeds 75% of the Clearing Member's excess net capital, and such Sufficiency Stress Test also results in Clearing Fund draws for any one or two Clearing

5. Correction of Cooling-Off Period and Replenishment/Assessment Power Rules

OCC proposes several corrections to its Rules and Policy concerning its cooling-off period and Clearing Fund replenishment/assessment powers. As part of OCC's recently approved filings to implement enhanced and new recovery tools (''Recovery Tools Filings''), OCC adopted a minimum 15-day ''cooling-off period'' with a cap on Clearing Fund assessments.[21] OCC Rule 1006(h) currently provides that the cooling-off period is triggered when any amount is paid out of the Clearing Fund as a result of a proportionate charge resulting from any of the events described in clauses (i) through (iv) of Rule 1006(a).[22] The actual intention of the Recovery Tools Filings, however, was to capture any proportionate charges related to the default of a Clearing Member,[23] which would also include any use of the Clearing Fund to make good losses or expenses suffered by OCC or as a result of a borrowing by OCC: (1) In connection with protective transactions effected for the account of OCC pursuant to Chapter XI of the Rules and (2) as a result of a failure of any Clearing Member to make any other required payment or render any other required performance (as provided in clauses (v) and (vi) of Rule 1006(a)). OCC therefore proposes to revise its Rules and Policy to more correctly reflect that the cooling-off period and associated assessment caps apply for any proportionate charge resulting from any of the events described in clauses (i) through (vi) of Rule 1006(a). The proposed rule change would ensure that all proportionate charges associated with a Clearing Member default are treated consistently as was originally intended with the adoption of the cooling-off period and modification of OCC's replenishment/assessment powers in the Recovery Tools Filings.

6. Other Clarifying and Conforming Changes

Finally, OCC proposes a number of clarifying, streamlining, and organizational changes to the Methodology Description that are not intended to change the substance of OCC's stress testing and Clearing Fund methodology, but that OCC believes would improve the clarity and readability of the document. The proposed changes to the Methodology Description are described below.

Proposed Changes to the Executive Summary

OCC proposes to revise the model scope discussion of the executive summary to provide a summary of the netting rules and positions sets used for stress testing and to break out different sections for the discussion of Systemic Scenarios and Idiosyncratic Scenarios. The executive summary would also be revised to provide additional information regarding the key assumptions of OCC's stress testing and Clearing Fund methodology. In addition, the Model Performance section of the executive summary would be revised to provide further information on supporting documentation for OCC's stress testing.

Proposed Changes to the Description of Stress Test Portfolio Construction

OCC also proposes to revise its Methodology Description to provide additional details regarding the construction of stress testing portfolios. For example, the proposed revisions would discuss OCC's process for creating the ''Synthetic Accounts'' used in stress testing. Clearing Member positions are initially held in ''Tier Accounts'' that have the same business type (*e.g.,* omnibus customer accounts, combined market maker accounts, firm accounts) and cross-margining relationship with other clearinghouses (if applicable). For the purpose of stress testing, OCC considers liquidation positions, where Tier Account level positions are further aggregated into Synthetic Accounts. The rules that govern the netting process and permissible offsets are based on account structures outlined in OCC's By-Laws and Rules.[24] The proposed revisions would also remove the discussion of ''marginable positions,'' which are used to calculate margin requirements, since marginable positions are not relevant to OCC's Clearing Fund and stress testing methodology requirements and OCC's various account structures and the manner in which such accounts are margined is covered in OCC's By-Laws, Rules, and Margin Policy. In addition, the proposed revisions would restate in descriptive terms the calculation for determining total credit loss shortfalls.

The proposed revisions would also provide further clarity and detail concerning the aggregation of account-level stress test results. A key aspect of the aggregation of business type accounts is that some accounts have a restricted lien, in which assets in that account can only be used to offset losses in that business type account, while other accounts have a general lien, in which assets or gains in that account can be used to offset losses in any business type account of the same Clearing Member. The Methodology Description would be revised to summarize OCC's process for determining if an account is a general lien account or restricted lien account and for ensuring that such accounts receive proper netting treatment.

Proposed Changes to the Description of OCC's Stress Testing Model

In addition, OCC proposes a number of changes to its Methodology Description to improve the description of the models used in OCC's stress testing and Clearing Fund methodology. For example, the Methodology Description would be revised to provide additional context around the types of scenarios (*e.g.,* Systemic Scenarios and Idiosyncratic Scenarios) that stress testing models are used to create. The proposed changes would also provide a more straightforward discussion around the use and selection of risk drivers used to represent risk factors in OCC's

Member Groups that exceed 90% of the current Clearing Fund size, OCC may choose to resize the Clearing Fund on an intra-month basis rather than continuing to call for additional margin from a Clearing Member whose ability to meet such a call may be strained. *See supra* notes 7 and 8.

[21] On August 23, 2018, the Commission issued a Notice of No Objection to an advance notice by OCC concerning changes to OCC's Rules and By-Laws to enhance OCC's existing tools to address the risks of liquidity shortfalls and credit losses and to establish new tools by which OCC could re-establish a matched book and, if necessary, allocate uncovered losses following the default of a Clearing Member as well as provide for additional financial resources. *See* Securities Exchange Act Release No. 83927 (August 23, 2018), 83 FR 44083 (August 29, 2018) (SR–OCC–2017–809). On August 23, 2018, the Commission approved a proposed rule change by OCC concerning the same proposal. *See* Securities Exchange Act Release No. 83916 (August 23, 2018), 83 FR 44076 (August 29, 2018) (SR–OCC–2017–020).

[22] These clauses include the following events: (i) Failure of any Clearing Member to discharge duly any obligation on or arising from any confirmed trade accepted by the Corporation; (ii) failure of any Clearing Member (including any Appointed Clearing Member) or of CDS to perform its obligations (including its obligations to the correspondent clearing corporation) under or arising from any exercised or assigned option contract or matured future or any other contract or obligation issued, undertaken, or guaranteed by the Corporation or in respect of which the Corporation is otherwise liable; (iii) failure of any Clearing Member to perform any of its obligations to the Corporation in respect of the stock loan and borrow positions of such Clearing Member; and (iv) any liquidation of a Clearing Member's open positions.

[23] *See e.g.,* Securities Exchange Act Release No. 83927 (August 23, 2018), 83 FR 44083, 44077 (August 29, 2018) (SR–OCC–2017–809) (providing that ''[t]he proposal would introduce a minimum fifteen calendar day 'cooling-off' period that automatically begins when OCC imposes a proportionate charge related to the default of a Clearing Member against non-defaulting Clearing Members' Clearing Fund contributions.'').

[24] *See e.g.,* OCC Rules 601, 602, 611.

one-factor stress testing model.[25] OCC notes that under the current Methodology Description, risk drivers and their mappings are subject to periodic review and change by OCC's Stress Test Working Group (''STWG''). The Methodology Description currently contains a non-exhaustive, sample set of risk drivers as of March 2018. OCC is proposing to replace the sample set of risk drivers with a more general list of risk drivers that may be used per risk factor type to ensure the ongoing accuracy and clarity of OCC's methodology documentation as the risk drivers change through the STWG governance process. The proposed revisions would also provide additional details around STWG's process for approving the addition, change or retiring of risk drivers. Changes to risk drivers may be based on, among other things: Changing business needs, new product launches, open interest, or other changes in product mix. Moreover, when adding, changing, or retiring risk drivers, STWG would consider factors including, but not limited to: Contract specifications (*e.g.* a derivative's underlying asset, the asset classification of a product), the relationship between proposed new products and existing risk drivers, the correlation between risk drivers and risk factors, and/or quality of available data. STWG may also approve the retirement and removal of a risk driver that has no risk factors mapped to it or if the risk driver itself is delisted. In addition, OCC would revise the methodology description to further clarify that, unlike annual recalibrations, the STWG would only approve quarterly recalibration of risk driver shocks when warranted (and not as a matter of course). The Methodology Description would also be updated to note that risk drivers and their mappings are maintained by the STLRM group and are available in the stress testing system. OCC does not believe that these proposed changes constitutes a material or substantive change in OCC's Methodology Description but rather more appropriately documents OCC's process for maintaining and updating risk drivers.[26]

In addition, OCC proposes to revise the Methodology Description to provide a more straightforward discussion of the modeling of risk factor returns and price shocks for Hypothetical and Historical Scenarios and for OCC's various cleared products. Specifically, OCC proposes clarifying, streamlining, and organizational changes to the description of its modeling of volatility shocks for risk factors with SPX as the risk driver and for non-SPX driven risk factors. The proposed changes would also provide additional details on OCC's volatility modeling for flexibly structured options (or ''flex options''),[27] for which shocked implied volatility is calculated from shocked implied volatilities of regular options.

OCC also proposes to replace a section specifically discussing price shocks for products where the underlying security is a basket of deliverable obligation securities with a more generalized discussion of OCC's approach to modeling price shocks for products with multiple risk factors as the underlying. In this case, the Methodology Description would describe how the underlyings are shocked by applying the one-factor model to each component risk factor. In addition, this proposed change would eliminate a restriction limiting the methodology to an ''all or none'' approach where price shocks are modeled using either all historical shocks or all shocks derived from OCC's beta methodology[28] to provide appropriate flexibility for OCC to determine price shocks on an individual risk factor basis depending on whether historical data is available. This allows for consistency between the shocks of the basket and the shocks used to price products on the basket's components. The Methodology Description would also be revised to describe how, in the case of a leveraged product, shocks are determined using a leverage ratio with respect to its tracking index used as the default beta. OCC believes the proposed changes are more generally aligned with the intended purpose of the Methodology Description, which is designed, in general, to provide a general description of the materials aspects of OCC's stress testing and Clearing Fund methodologies.

Additionally, OCC proposes to correct a reference to the use of log returns in the calculation of volatility shocks to more accurately state that these calculations are currently made using two-day arithmetic returns. OCC's stress testing methodology utilizes two-day arithmetic returns to calculate these shocks to align with OCC's two-day liquidation horizon assumption for its margin methodology and the arithmetic returns used in its dynamic VIX calibration process.[29]

OCC also proposes to clarify that implied volatility shocks for Systemic Scenarios are based on the expected risk, or ''variance,'' of the risk factor in a forward-looking period after the price shock as opposed to the ''standard deviation.'' OCC believes that using the terms ''variance'' or ''standard deviation'' are essentially equivalent ways to describe the equation; however, the term ''variance'' would more accurately reflect the terms of equation used in the document.

Proposed Changes to Description of Calibrations

OCC proposes to revise its Methodology Description to more correctly describe the approach for generating shocks for U.S. Treasuries and Canadian Government Bond by replacing the term ''covariance'' with ''correlation.'' While the calibration does use a covariance matrix, the inputs to the calibration are normalized by their standard deviation and so the resulting matrix actually contains correlations. The correlation matrix is then scaled by standard deviation terms to generate interest rate shocks.[30]

Proposed Changes to Description of Stress Test Scenarios

Finally, OCC proposes to revise the Methodology Description to provide additional clarity around the use and calibration of risk driver shocks in Hypothetical, Historical and Idiosyncratic Scenarios. OCC would

[25] ''Risk factors'' refer broadly to all of the individual underlying securities (such as Google, IBM and Standard & Poor's Depositary Receipts (''SPDR''), S&P 500 Exchange Traded Funds (''SPY''), etc.) listed on a market. ''Risk drivers'' are a selected set of securities or market indices (*e.g.,* SPX or VIX) that are used to represent the main sources or drivers for the price changes of the risk factors.

[26] OCC notes that the Methodology Description would continue to specify that SPX and VIX are the main risk drivers for shocks of equity risk factors as equity risk factors make up the vast majority of volume, open interest, and risk at OCC. Due to the nature of equity risk factors, OCC's stress testing methodology treats equity risk factors in a standard and consistent fashion with respect to the mapping of risk drivers. Non-equity products, such as commodity futures and certain exchange-traded products (*e.g.,* ETFs and ETNs), may have different risk drivers or risk drivers may change due to the evolving nature of the securities markets and the products OCC clears. Consequently, OCC believes it is necessary to maintain appropriate flexibility to adjust risk drivers as evolving circumstances warrant through the established STWG governance process.

[27] Flex options are options that give investors the ability to customize basic option features including size, expiration date, exercise style, and certain exercise prices that do not correspond to the terms of any series of non-flexibly structured options previously opened for trading on an Exchange. *See* OCC By-Laws, Article I., Section 1.F.(8).

[28] The ''beta'' is the sensitivity of a security with respect to its corresponding risk driver (*i.e.,* the sensitivity of the price of the security relative to the price of the risk driver).

[29] *See* supra note 7.

[30] OCC notes that this is a standard practice. *See* Litterman, Robert and Sheinkman, Jose, ''Common Factors Affecting Bond Returns,'' *Journal of Fixed Income,* 1991.

also remove specific references to certain risk drivers and parameters that are subject to periodic review and change through its internal governance processes. OCC would also update the sample table of stress test scenarios in the document to: (1) Reflect the addition of the proposed Idiosyncratic Scenarios; (2) remove Informational Scenarios from the table, which do not drive financial resource determinations and are subject to periodic change; and (3) provide additional information on the type of price shock used for each scenario in the table. In addition, OCC proposes to remove certain language from the document that provides qualitative justification for OCC's Clearing Fund allocation methodology but does not have any relevance to the actual calculation of Clearing Fund allocations.

Clearing Member Outreach

To inform Clearing Members of the proposed changes, OCC has provided an overview of the proposed changes to the Financial Risk Advisory Council (''FRAC''), a working group comprised of exchanges, Clearing Members and indirect participants of OCC. OCC has also performed direct outreach to Clearing Members that would be most impacted by the proposed changes. To-date, OCC has not received any material objections or concerns in response to this outreach.

Implementation Timing

OCC expects to implement the proposed changes within sixty (60) days after the date that OCC receives all necessary regulatory approvals for the proposed changes. OCC will announce the implementation date of the proposed change by an Information Memorandum posted to its public website at least two (2) weeks prior to implementation.[31]

(1) Statutory Basis

OCC believes the proposed rule change is consistent with requirements of the Act and rules and regulations thereunder applicable to registered clearing agencies. Specifically, OCC believes the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act[32] and Rule 17Ad–22(b)(3)[33] and Rule 17Ad–22(e)(4)[34] thereunder, as described in further detail below.

Consistency With the Section 17A(b)(3)(F) of the Exchange Act

Section 17A(b)(3)(F) of the Act[35] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities and derivatives transactions. Taken together, OCC believes the proposed changes are designed to enhance OCC's overall framework for managing credit risk and are consistent with Section 17A(b)(3)(F) of the Act[36] for the reasons set forth below.

OCC believes that implementing the proposed Idiosyncratic Scenarios would enhance OCC's stress testing methodology and overall resiliency by providing a more comprehensive suite of Sizing Stress Tests to ensure that OCC maintains appropriate level of Pre-Funded Financial Resources to cover its credit exposures under scenarios addressing both systemic market risks and idiosyncratic risks. As noted above, OCC's Sizing Stress Tests are used to establish the monthly size of the Clearing Fund necessary for OCC to maintain sufficient Pre-Funded Financial Resources to cover losses arising from the default of the two Clearing Member Groups that would potentially cause the largest aggregate credit exposure to OCC in extreme but plausible market conditions. The proposed Idiosyncratic Scenarios would supplement OCC's current set of Sizing Scenarios (which are generally designed to estimate risk exposures arising from more broad-based market and systemic shocks reflected in OCC's Systemic Scenarios) by enabling OCC to appropriately consider the risks of extreme moves in individual or small subsets of securities. OCC therefore believes that the proposed rule change would enhance OCC's overall framework for managing credit risks and reduce the risk that its Pre-Funded Financial Resources would be insufficient in an actual default so that it can continue to provide prompt and accurate clearance and settlement of securities and derivatives transactions consistent with Section 17A(b)(3)(F) of the Act.[37]

In addition, OCC proposes to enhance its stress testing methodology to more accurately and appropriately model price shocks for VIX futures. Under OCC's current stress testing methodology, prices shocks for VIX futures are equivalent to the price shock for the underlying VIX index. OCC believes that this approach is unrealistic in that it produces a uniform shock across expirations of the VIX futures contract, which leads to an overestimation of VIX futures price shocks, particularly in market decline scenarios. OCC therefore proposes to enhance its stress testing methodology to produce more appropriate VIX futures price shocks that would vary based on the expiration of contracts as is more realistically observed in the market.[38] OCC believes the proposed changes would enhance OCC's framework for managing credit risk because it would result in more accurate and realistic stress testing results and are therefore designed to promote the prompt and accurate clearance and settlement of securities and derivatives transactions consistent with Section 17A(b)(3)(F) of the Act.[39]

OCC also proposes to revise the Policy to require that STLRM provide written notification to the Office of the CEO whenever a Sufficiency Stress Test margin call imposed on an individual Clearing Member exceeds 75% of the Clearing Member's excess net capital. The proposed change would allow OCC's senior management to be informed of, and to subsequently monitor, circumstances where a margin call may strain a particular Clearing Member's ability to meet such requirements based on its financial condition or the amount of collateral it has available to pledge when certain pre-identified thresholds have been exceeded. OCC believes the proposed rule change would improve its process for monitoring and managing credit risk, particularly those identified through Sufficiency Stress Test margin calls, and take steps to reduce potential default risks so that it can continue to promote the prompt and accurate clearance and settlement of securities and derivatives transactions consistent with Section 17A(b)(3)(F) of the Act.[40]

Additionally, OCC proposes to standardize the margin risk component of its Clearing Fund allocation formula by using only STANS-based margin requirements for all Clearing Members. OCC believes it is appropriate to use the same margin risk measurement for all Clearing Members/accounts when determining Clearing Fund allocations since this allows for a more equitable comparison across all accounts through the utilization of a consistent margin methodology. OCC believes that the

[31] OCC notes that the impact of certain changes, such as the proposed changes to the Clearing Fund allocation formula and potential for a new Idiosyncratic Scenario to set the size of the Clearing Fund, will not occur until the first monthly resizing of the Clearing Fund following the announced implementation date.

[32] 15 U.S.C. 78q–1(b)(3)(F).

[33] 17 CFR 240.17Ad–22(b)(3).

[34] 17 CFR 240.17Ad–22(e)(4).

[35] 15 U.S.C. 78q–1(b)(3)(F).

[36] *Id.*

[37] *Id.*

[38] Additionally, because VIX futures are used to calculate theoretical values for VIX options, the proposed enhancement would improve the pricing of both VIX futures and VIX options in OCC's stress testing methodology.

[39] 15 U.S.C. 78q–1(b)(3)(F).

[40] *Id.*

proposed changes would result in an allocation formula that determines Clearing Member contribution requirements that are commensurate to the risks posed by each Clearing Member. As a result, OCC believes the proposed rule change is designed to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible, and, in general, to protect investors and the public interest consistent with Section 17A(b)(3)(F) of the Act.[41]

OCC proposes to revise its Rules and Policy to provide that the cooling-off period and associated assessment caps apply to any proportionate charge related to a Clearing Member default, including any use of the Clearing Fund to make good losses or expenses suffered by OCC or as a result of a borrowing by OCC (1) in connection with protective transactions effected for the account of OCC pursuant to Chapter XI of the Rules and (2) as a result of a failure of any Clearing Member to make any other required payment or render any other required performance, and are not limited to a certain subset of Clearing Member default-related events. The proposed rule change would ensure that the cooling-off period and associated assessment caps are consistently applied for any proportionate charge resulting from any of the events described in clauses (i) through (vi) of Rule 1006(a) and thereby ensure that OCC can fully access and utilize its Clearing Fund resources to continue to provide prompt and accurate clearance and settlement of securities and derivatives transactions consistent with Section 17A(b)(3)(F) of the Act[42] if such events were to occur.

OCC also proposes to make clarifying, streamlining, and organizational changes to the Methodology Description that are not intended to change the substance of OCC's stress testing and Clearing Fund methodology, but that OCC believes would improve the clarity and readability of the document. OCC believes that by improving the clarity of the primary documents governing OCC's Clearing and stress testing requirements the proposed changes are designed, in general, to protect the investors and the public interest in a manner consistent with Section 17A(b)(3)(F) of the Act.[43]

Consistency With Rule 17Ad–22 Under the Exchange Act

Rule 17Ad–22(b)(3)[44] requires a registered clearing agency that performs central counterparty services to establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain sufficient financial resources to withstand, at a minimum, a default by the participant family to which it has the largest exposure in extreme but plausible market conditions. Rules 17Ad–22(e)(4)(iii) and (iv)[45] further require, in part, that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining additional financial resources (beyond those collected as margin or otherwise maintained to meet the requirements of Rule 17Ad–22(e)(4)(i))[46] at the minimum to enable it to cover a wide range of foreseeable stress scenarios that include, but are not limited to, the default of the participant family that would potentially cause the largest aggregate credit exposure for the covered clearing agency in extreme but plausible market conditions and do so exclusive of assessments for additional guaranty fund contributions or other resources that are not prefunded.

The proposed rule change would enhance OCC's stress testing methodology and overall resiliency by providing a more comprehensive suite of Sizing Stress Tests to ensure that OCC maintains an appropriate level of Pre-Funded Financial Resources to cover its credit exposures under scenarios addressing both systemic market risks and idiosyncratic risks. The proposed Idiosyncratic Scenarios would supplement OCC's current set of Sizing Scenarios, which are generally designed to estimate risk exposures arising from more broad-based market and systemic shocks reflected in OCC's Systemic Scenarios, by enabling OCC to appropriately consider the risks of extreme moves in individual or small subsets of securities. OCC therefore believes that the proposed rule change would enhance OCC's overall framework for managing credit risks and reduce the risk that its Pre-Funded Financial Resources would be insufficient in an actual default.

In addition, OCC proposes to enhance its stress testing methodology by using SPX at-the-money implied volatility shocks across different expirations to model price shocks for VIX futures contracts for corresponding expirations as opposed to using a uniform shock for all expirations. The proposed rule change is designed to more accurately measure OCC's credit exposure in its stress scenarios by producing price shocks for VIX futures that would vary based on the expiration as is more realistically observed in the market.

Taken together, OCC believes the proposed changes are reasonably designed so that OCC can measure its credit exposures to its participants and manage such exposures by maintaining sufficient financial resources at a minimum to enable it to cover a wide range of foreseeable stress scenarios that include, but are not limited to, the default of the participant family that would potentially cause the largest aggregate credit exposure for OCC in extreme but plausible market conditions (and do so exclusive of assessments for additional Clearing Fund contributions or other resources that are not prefunded). For these reasons, OCC believes the proposed changes are consistent with Rule 17Ad–22(b)(3) and Rules 17Ad–22(e)(4)(iii) and (iv).[47]

Furthermore, Rule 17Ad–22(e)(4)[48] generally requires that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes. OCC believes the proposed changes to its Sufficiency Stress Test monitoring process would improve its overall processes for monitoring and managing credit risk. OCC would revise the Policy to require that STLRM provide written notification to the Office of the CEO whenever a Sufficiency Stress Test margin call imposed on an individual Clearing Member exceeds 75% of the Clearing Member's excess net capital (in addition to the current requirement to provide notification for any margin call exceeding $500 million). The proposed change would allow OCC's senior management to be informed of, and to subsequently monitor, circumstances where a margin call may strain a particular Clearing Member's ability to meet such requirements based on its financial condition or the amount of

[41] *Id.* OCC also believes that by standardizing the margin risk component of its Clearing Fund allocation formula the proposed rule change promotes compliance with the requirement of Section 17A(b)(3)(F) of the Act that a clearing agency's rules not be designed to permit unfair discrimination among participants in the use of the clearing agency.

[42] *Id.*

[43] *Id.*

[44] 17 CFR 240.17Ad–22(b)(3).

[45] 17 CFR 240.17Ad–22(e)(4)(iii) and (iv).

[46] 17 CFR 240.17Ad–22(e)(4)(i).

[47] 17 CFR 240.17Ad–22(b)(3) and (e)(4)(iii) and (iv).

[48] 17 CFR 240.17Ad–22(e)(4).

collateral it has available to pledge when certain pre-identified thresholds have been exceeded. OCC therefore believes the proposed rule change is reasonably designed to help OCC identify, measure, and monitor its credit exposures to participants, particularly those identified through Sufficiency Stress Test margin calls, consistent with Rule 17Ad–22(e)(4).[49]

OCC also believes that the proposed changes to standardize the margin risk component of its Clearing Fund allocation formula by using only STANS-based margin requirements for all Clearing Members are reasonably designed to measure and manage its credit exposures to participants. With respect to the use of Clearing Funds and the requirements of Rule 17Ad–22(e)(4),[50] the Commission has noted that, to the extent that a clearing agency uses guaranty or clearing fund contributions to mutualize risk across participants, the clearing agency generally should value margin and guaranty fund contributions so that the contributions are commensurate to the risks posed by the participants' activity.[51] OCC believes it is appropriate to use the same margin risk measurement for all Clearing Members/accounts when determining Clearing Fund allocations since this allows for a more equitable comparison across all accounts and would result in contribution requirements that are commensurate to the risks posed by each Clearing Member. As a result, OCC believes the proposed changes are reasonably designed to comply with the requirements of Rule 17Ad–22(e)(4).[52]

Rule 17Ad–22(e)(4)(ix)[53] requires that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by describing its process to replenish any financial resources it may use following a default or other event in which use of such resources is contemplated. OCC believes the proposed changes to its cooling-off period and associated assessment cap Rules would ensure that the cooling-off period and associated assessment caps are consistently applied for any proportionate charge resulting from any of the events described in clauses (i) through (vi) of Rule 1006(a) and thereby ensure that OCC can fully access, utilize, and replenish its Clearing Fund resources to address any losses chargeable against the Clearing Fund and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes in a manner consistent with Rule 17Ad–22(e)(4)(ix).[54]

Finally, OCC believes the proposed clarifying, organizational, and streamlining changes to its Rules, Policy, and Methodology Description would improve the clarity and readability of its stress testing and Clearing Fund-related rules and policies are therefore consistent with the Rule 17Ad–22(e)(4)[55] requirement that OCC maintain policies and procedures that are reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes.

B. Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act[56] requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. OCC does not believe the proposed rule change would impose any burden on competition. First, OCC proposes to introduce new Idiosyncratic Scenarios for OCC's inventory of Sizing Stress Tests. OCC does not believe that introducing the Idiosyncratic Scenarios would have an impact on competition. As part of OCC's Sizing Stress Tests, the Idiosyncratic Scenarios would impact all Clearing Members similarly and would not impact individual Clearing Member allocations. In addition, based on analysis performed by OCC, OCC expects that the worst-case Cover 2 Idiosyncratic Scenario shortfall amounts would generally fall below OCC's current 1-in-80 year market event Sizing Scenarios and therefore would not ordinarily have a material impact on the size of the Clearing Fund.[57] Accordingly, OCC does not believe the proposed change would have any impact or burden on competition.

OCC does not believe the proposed changes to its methodology for modeling VIX futures price shocks would have a material impact on competition. The proposed changes are designed to generate more realistic price shocks that better reflect observed market conditions, which could generally result in lower shortfalls in market decline scenarios. OCC expects that the proposed VIX futures changes would have minimal impact on the monthly sizing of the Clearing Fund; however, the proposed change may result in reduced shortfalls in OCC's Sufficiency Scenarios (particularly the historical 1987 market event scenario) and therefore result in less frequent Sufficiency Stress Test margin calls (or margin calls of a lower magnitude). The impact of the proposed change would depend on the composition of a Clearing Member's portfolio at a given time. Generally, Clearing Members with longer tenor positions in VIX future contracts or VIX options will experience a change in the profit and loss on the contracts. Where these positions are driving the shortfall in an account, the account would experience a change in shortfall due to the decrease in the amount of the shock, dependent on the position and direction of the shock for the scenario in question. When shortfalls increase, a large Clearing Member may be more likely to be subject to more frequent and/or larger Sufficiency Stress Test margin calls than under the current model. When shortfalls decrease, Clearing Members may be less likely to breach Sufficiency Thresholds and/or may experience smaller Sufficiency Stress Test margin calls as a result of the change. OCC does not believe that this would present an impact or burden from a competitive standpoint, however. The proposed approach is simply intended to more accurately reflects the risks carried by Clearing Members and align any potential margins calls with this more accurate risk measure.

OCC also proposes to modify its Clearing Fund allocation methodology to standardize the margin risk component of the allocation formula for

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[49] *Id.* OCC also believes that the proposed change to the Policy would: (1) Provide for governance arrangements that specify clear and direct lines of responsibility consistent with the requirements of Rule 17Ad–22(e)(2)(v) and (2) contribute to a sound risk management framework for identifying, measuring, monitoring and managing credit and other risks that arise in or are borne by OCC in furtherance of the requirements of Rule 17Ad–22(e)(3)(i). *See* 17 CFR 240.17Ad–22(e)(2)(v) and 17 CFR 240.17Ad–22(e)(3)(i).

[50] *Id.*

[51] *See* Securities Exchange Act Release No. 78961 (September 28, 2016), 81 FR 70786 (October 13, 2016) (S7–03–14) (''Standards for Covered Clearing Agencies'') at 70813.

[52] *Id.*

[53] 17 CFR 240. 17Ad–22(e)(4).

[54] *Id.*

[55] 17 CFR 240. 17Ad–22(e)(4).

[56] 15 U.S.C. 78q–1(b)(3)(I).

[57] OCC has observed that there were certain circumstances where the Idiosyncratic Scenarios generated the largest shortfalls among OCC's Sizing Scenarios due to position increases relating to corporate action activity in very liquid securities; however, in these circumstances the size of the Clearing Fund would have been established at the minimum requirement of $6.3 billion under Rule 1001(b).

all members by using only the STANS base amount, plus certain add-on charges, in the Clearing Fund allocation process. Under the proposed change, Clearing Members with segregated futures accounts would typically see their Clearing Fund requirements decrease, while other Clearing Members' requirements would generally increase to balance out the full allocation of the Clearing Fund. While OCC acknowledges the impact of the proposed change on individual Clearing Member contribution requirements, OCC believes that using the same margin risk measurement for all Clearing Members/accounts when determining Clearing Fund allocations allows for a more equitable comparison across all accounts. As a result, OCC believes the proposed change would promote competition by standardizing its Clearing Fund allocation formula and treating all Clearing Members similarly in the allocation process.

In addition, OCC proposes changes to its cooling-off period and associated assessment cap rules that would ensure that the cooling-off period and associated assessment caps are consistently applied for any proportionate charge resulting from any of the events described in clauses (i) through (vi) of Rule 1006(a). These changes would apply equally to all Clearing Members and therefore OCC does not believe the proposed changes would have any impact or burden on competition.

Finally, OCC proposes to make clarifying changes to its Methodology Description, which are not expected to have any impact on competition. The proposed changes are not intended to materially change OCC's Clearing Fund or stress testing rules but are simply designed to provide more accuracy and clarity in OCC's methodology documentation. As a result, OCC does not believe the proposed changes would have any impact or burden on competition.

For the reasons set forth above, OCC believes that the proposed rule change would not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act

C. Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Exchange Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–OCC–2019–009 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–OCC–2019–009. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at *https://www.theocc.com/about/publications/bylaws.jsp.*

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–OCC–2019–009 and should be submitted on or before November 19, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[58]

Jill M. Petersen,

Assistant Secretary.

[FR Doc. 2019–23550 Filed 10–28–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 17a–1, SEC File No. 270–244, OMB Control No. 3235–0208

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 17a–1 (17 CFR 240.17a–1) under the Securities Exchange Act of 1934, as amended (the ''Act'') (15 U.S.C. 78a *et seq.*).

Rule 17a–1 requires that every national securities exchange, national securities association, registered clearing agency, and the Municipal Securities Rulemaking Board keep on file for a period of not less than five years, the first two years in an easily accessible place, at least one copy of all documents, including all correspondence, memoranda, papers, books, notices, accounts, and other such records made or received by it in the course of its business as such and in the conduct of its self-regulatory activity,

[58] 17 CFR 200.30–3(a)(12).

and that such documents be available for examination by the Commission.

There are 34 entities required to comply with the rule: 23 National securities exchanges, 1 national securities association, 9 registered clearing agencies, and the Municipal Securities Rulemaking Board. The Commission staff estimates that the average number of hours necessary for compliance with the requirements of Rule 17a–1 is 52 hours per year. In addition, 4 national securities exchanges notice-registered pursuant to Section 6(g) of the Act (15 U.S.C. 78f(g)) are required to preserve records of determinations made under Rule 3a55–1 under the Act (17 CFR 240.3a55–1), which the Commission staff estimates will take 1 hour per exchange, for a total of 4 hours. Accordingly, the Commission staff estimates that the total number of hours necessary to comply with the requirements of Rule 17a–1 is 1,772 hours. The total internal cost of compliance for all respondents is $124,040, based on an average cost per hour of $70.

Compliance with Rule 17a–1 is mandatory. Rule 17a–1 does not assure confidentiality for the records maintained pursuant to the rule. The records required by Rule 17a–1 are available only for examination by the Commission staff, state securities authorities, and the self-regulatory organizations. Subject to the provisions of the Freedom of Information Act, 5 U.S.C. 522, and the Commission's rules thereunder (17 CFR 200.80(b)(4)(iii)), the Commission does not generally publish or make available information contained in any reports, summaries, analyses, letters, or memoranda arising out of, in anticipation of, or in connection with an examination or inspection of the books and records of any person or any other investigation.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Lindsay.M.Abate@omb.eop.gov;* and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: October 24, 2019.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–23601 Filed 10–28–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–10721; 34–87398; File No. 265–28]

Investor Advisory Committee Meeting

AGENCY: Securities and Exchange Commission.

ACTION: Notice of meeting of Securities and Exchange Commission Dodd-Frank Investor Advisory Committee.

SUMMARY: The Securities and Exchange Commission Investor Advisory Committee, established pursuant to Section 911 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, is providing notice that it will hold a public meeting. The public is invited to submit written statements to the Committee.

DATES: The meeting will be held on Thursday, November 7, 2019 from 9:30 a.m. until 3:00 p.m. (ET). Written statements should be received on or before November 7, 2019.

ADDRESSES: The meeting will be held in Multi-Purpose Room LL–006 at the Commission's headquarters, 100 F Street NE, Washington, DC 20549. The meeting will be webcast on the Commission's website at *www.sec.gov.* Written statements may be submitted by any of the following methods:

Electronic Statements

- Use the Commission's internet submission form (*http://www.sec.gov/rules/other.shtml*); or
- Send an email message to *rules-comments@sec.gov.* Please include File No. 265–28 on the subject line; or

Paper Statements

- Send paper statements to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File No. 265–28. This file number should be included on the subject line if email is used. To help us process and review your statement more efficiently, please use only one method.

Statements also will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Room 1503, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All statements received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Marc Oorloff Sharma, Chief Counsel, Office of the Investor Advocate, at (202) 551–3302, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public, except during that portion of the meeting reserved for an administrative work session during lunch. Persons needing special accommodations to take part because of a disability should notify the contact person listed in the section above entitled **FOR FURTHER INFORMATION CONTACT.**

The agenda for the meeting includes: Welcome remarks; a discussion regarding whether investors use environmental, social, and governance (ESG) data in investment/capital allocation decisions; a discussion regarding the SEC's Concept Release on Harmonization of Securities Offering Exemptions; subcommittee reports; and a nonpublic administrative work session during lunch.

Dated: October 24, 2019.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–23607 Filed 10–28–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87385; File No. SR–NYSEArca–2019–51]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change Regarding Investments of the Janus Henderson Mortgage-Backed Securities ETF Currently Listed and Traded on the Exchange Under NYSE Arca Rule 8.600–E

October 23, 2019.

On July 9, 2019, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities

Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to make certain changes to the investments of the Janus Henderson Mortgage-Backed Securities ETF (''Fund''), the shares (''Shares'') of which are currently listed and traded on the Exchange under NYSE Arca Rule 8.600–E. The proposed rule change was published for comment in the **Federal Register** on July 25, 2019.[3]

On September 3, 2019, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[5] The Commission has received no comment letters on the proposal. The Commission is publishing this order to institute proceedings under Section 19(b)(2)(B) of the Act [6] to determine whether to approve or disapprove the proposed rule change.

I. Exchange's Description of the Proposal [7]

The Exchange proposes to make certain changes to the investments of the Fund. According to the Exchange, the Shares of the Fund commenced listing and trading on the Exchange on September 12, 2018 pursuant to the generic listing standards under Commentary .01 to NYSE Arca Rule 8.600–E, which governs the listing and trading of Managed Fund Shares [8] on the Exchange.

The Fund is a series of Janus Detroit Street Trust (''Trust'').[9] Janus Capital Management LLC is the Fund's investment adviser (''Adviser'').[10] State Street Bank and Trust Company is the custodian and transfer agent for the Fund, and ALPS Distributors, Inc. is the distributor for the Fund's Shares.

A. Principal Investments of the Fund

According to the Exchange, the Fund's investment objective is to seek a high level of total return consisting of income and capital appreciation. Under normal market conditions,[11] the Fund invests at least 80% of its net assets in a portfolio of mortgage-related fixed income instruments of varying maturities. The mortgage-related fixed income instruments in which the Fund may invest are the following: Residential mortgage-backed securities; commercial mortgage-backed securities; collateralized mortgage obligations; stripped mortgage-backed securities; mortgage pass-through securities; and other securities representing an interest in or secured by or related to mortgages, including asset-backed securities (''ABS'').[12]

Under normal market conditions, the Fund will invest at least 80% of its net assets in mortgage-related securities issued by the U.S. government and its agencies, such as the Government National Mortgage Association (Ginnie Mae), the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac). The Fund will typically enter into ''to be announced'' or ''TBA'' commitments when purchasing mortgage-backed securities. The Fund also may invest in exchange-traded funds (''ETFs'').[13]

B. Other Investments of the Fund

While the Fund, under normal market conditions, will invest at least 80% of its assets in the mortgage-related securities issued by the U.S. government and its agencies as described above under Principal Investments, the Fund may invest up to 20% of its assets in the securities and financial instruments described below.

The Fund may hold cash and cash equivalents.[14] In addition, the Fund may hold the following fixed income securities (''Fixed Income Securities''):

- U.S. government securities;
- industrial development bonds;
- inflation-indexed bonds, including municipal inflation-indexed bonds and corporate inflation-indexed bonds; or in derivatives that are linked to these securities;
- municipal lease obligations;
- pass-through securities;
- variable and floating rate obligations (including ''inverse floaters'');
- subordinated or junior debt;
- corporate bonds, debentures, notes, and other similar corporate debt instruments;
- non-agency, or privately-issued, residential and commercial mortgage-backed securities, and other mortgage-related securities.[15]

The Fund may enter into mortgage dollar rolls and may invest in TBA transactions. The Fund may enter into short sales of any securities in which the Fund may invest.

The Fund also may hold the following listed derivative instruments: Futures, options (including options on futures), and swaps on commodities, currencies, U.S. and non-U.S. equity securities, fixed income securities as defined in Commentary .01(b) to Rule 8.600–E, interest rates, U.S. Treasuries, or a basket or index of any of the foregoing. Such listed derivatives will comply with the criteria in Commentary .01(d) of NYSE Arca Rule 8.600–E.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 86417 (July 19, 2019), 84 FR 35910 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 86855, 84 FR 47337 (September 9, 2019). The Commission designated October 23, 2019, as the date by which it should approve, disapprove, or institute proceedings to determine whether to approve or disapprove the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] The Commission notes that additional information regarding, among other things, the Shares, Fund, investment objective, permitted investments, investment strategies and methodology, investment restrictions, investment adviser, creation and redemption procedures, availability of information, trading rules and halts, and surveillance procedures, can be found in the Notice (*see supra* note 3) and the Registration Statement (*see infra* note 9), as applicable.

[8] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies.

[9] The Trust is registered under the 1940 Act. On February 28, 2019, the Trust filed with the Commission a registration statement on Form N–1A under the Securities Act of 1933 and the 1940 Act relating to the Fund (File Nos. 333–207814 and 811–23112) (''Registration Statement''). In addition, the Exchange represents that the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 31540 (March 30, 2015).

[10] The Exchange represents that the Adviser is not registered as a broker-dealer, but is affiliated with a broker-dealer and has implemented and will maintain a fire wall with respect to such broker-dealer affiliate regarding access to information concerning the composition of, and/or changes to, the portfolio. In the event (a) the Adviser becomes registered as a broker-dealer or newly affiliated with one or more broker-dealers, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition of, and/or changes to, the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding such portfolio.

[11] The term ''normal market conditions'' is defined in NYSE Arca Rule 8.600–E(c)(5).

[12] The Fund will typically invest in asset-backed securities backed by pools of home equity loans and other mortgage-related debt. Asset-backed securities are collateralized by pools of obligations or assets. Asset-backed securities may take the form of commercial paper, notes, or pass-through certificates, and may be structured as floaters, inverse floaters, interest-only, and principal-only obligations.

[13] For purposes of this filing, ''ETFs'' are Investment Company Units (as described in NYSE Arca Rule 5.2–E(j)(3)); Portfolio Depositary Receipts (as described in NYSE Arca Rule 8.100–E); and Managed Fund Shares (as described in NYSE Arca Rule 8.600–E). All ETFs will be listed and traded in the U.S. on a national securities exchange.

[14] For purposes of this filing, cash equivalents include the securities included in Commentary .01(c) to NYSE Arca Rule 8.600–E.

[15] Non-agency, or privately-issued, residential and commercial MBS, and other mortgage-related securities and other asset-backed securities are referred to herein as ''Private ABS/MBS.''

The Fund may hold the following over-the-counter (''OTC'') derivative instruments: Forwards, options, and OTC total return swaps on commodities, currencies, U.S. and non-U.S. equity securities, fixed income securities as defined in Commentary .01(b) to Rule 8.600–E, interest rates, or a basket or index of any of the foregoing. The Fund also may hold OTC credit default swaps and may enter into OTC options on swap agreements.

The Fund may invest in securities of non-exchange-traded investment company securities, subject to applicable limitations under Section 12(d)(1) of the 1940 Act, and may invest in private placements, restricted securities, and Rule 144A securities. The Fund will not invest in securities or other financial instruments that have not been described in this proposed rule change.

C. Application of Generic Listing Requirements

The Exchange represents that it is submitting this proposed rule change because the portfolio for the Fund will not meet all of the ''generic'' listing requirements of Commentary .01 to NYSE Arca Rule 8.600–E applicable to the listing of Managed Fund Shares. The Fund's portfolio would meet all such requirements except for those set forth in Commentaries .01(a) [16] and Commentary .01(b)(4) [17] to NYSE Arca Rule 8.600–E.

The Fund may invest in non-exchange-traded investment company securities, which are equity securities. Because such securities have a net asset value based on the value of securities and financial assets the investment company holds, the Exchange believes it is both unnecessary and inappropriate to apply to such investment company securities the criteria in Commentary .01(a)(1). The Exchange notes that the Commission has previously approved the listing of Managed Fund Shares with similar investment objectives and strategies where such funds were permitted to invest in the shares of other registered investment companies that are not ETFs or money market funds.

In addition, the Exchange represents that the Fund will not comply with the requirements in Commentary .01(b)(4) to NYSE Arca Rule 8.600–E that component securities that in the aggregate account for at least 90% of the fixed income weight of the portfolio meet one of the criteria specified in Commentary .01(b)(4), because certain Private ABS/MBS by their nature cannot satisfy the criteria in Commentary .01(b)(4).[18] Instead, the Exchange proposes that the Fund's investments in Fixed Income Securities other than Private ABS/MBS will be required to comply with the requirements of Commentary .01(b)(4). The Exchange believes that excluding Private ABS/MBS from the 90% calculation in Commentary .01(b)(4) is consistent with the Act because the Fund's portfolio will minimize the risk to the overall Fund associated with any particular holding of the Fund as a result of the diversification provided by the investments and the Adviser's selection process, which closely monitors investments to ensure maintenance of credit and liquidity standards. Further, the Exchange believes that this alternative limitation is appropriate because Commentary .01(b)(4) to NYSE Arca Rule 8.600–E is not designed for structured finance vehicles such as Private ABS/MBS. The Exchange notes that the Commission has previously approved the listing of Managed Fund Shares with similar investment objectives and strategies without imposing requirements that a certain percentage of such funds' securities meet one of the criteria comparable to those set forth in Commentary .01(b)(4).

The Adviser represents that the proposed exceptions from the requirements of Commentary .01 to NYSE Arca Rule 8.600–E described above are consistent with the Fund's investment objective and will further assist the Adviser to achieve such investment objective. Deviations from the generic requirements are necessary for the Fund to achieve its investment objective in a manner that is cost-effective and that maximizes investors' returns. Further, the proposed alternative requirements are narrowly tailored to allow the Fund to achieve its investment objective in manner that is consistent with the principles of Section 6(b)(5) of the Act. As a result, the Exchange represents that it is in the public interest to approve listing and trading of Shares of the Fund on the Exchange pursuant to the requirements set forth herein.

The Exchange represents that, other than Commentaries .01(a) and (b)(4) to NYSE Arca Rule 8.600–E, as described above, the Fund's portfolio will meet all other requirements of NYSE Arca Rule 8.600–E.

II. Proceedings To Determine Whether To Approve or Disapprove SR–NYSEArca–2019–51 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act [19] to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[20] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and ''to protect investors and the public interest.'' [21]

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in the Notice,[22] in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks commenters' views regarding whether the Exchange has adequately described

[16] Commentary .01(a)(1) to NYSE Arca Rule 8.600–E (U.S. Component Stocks) requires that the component stocks of the equity portion of a portfolio that are U.S. Component Stocks meet certain criteria initially and on a continuing basis.

[17] Commentary .01(b)(4) to NYSE Arca Rule 8.600–E provides that component securities that in the aggregate account for at least 90% of the fixed income weight of the portfolio must be either: (a) From issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more; (c) from issuers that have outstanding securities that are notes, bonds debentures, or evidence of indebtedness having a total remaining principal amount of at least $1 billion; (d) exempted securities as defined in Section 3(a)(12) of the Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country.

[18] According to the Exchange, Private ABS/MBS are generally issued by special purpose vehicles in amounts smaller than the minimum dollar threshold set forth in Commentary .01(b)(4), so the criteria in Commentary .01(b)(4) to NYSE Arca Rule 8.600–E regarding an issuer's market capitalization and the remaining principal amount of an issuer's securities are typically unavailable with respect to Private ABS/MBS, even though such Private ABS/MBS may own significant assets.

[19] 15 U.S.C. 78s(b)(2)(B).

[20] *Id.*

[21] 15 U.S.C. 78f(b)(5).

[22] *See* Notice, *supra* note 3.

and provided clear information about the proposed portfolio for the Commission to make a determination under Section 6(b)(5) of the Act.

III. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[23]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by November 19, 2019. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by December 3, 2019. The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, in addition to any other comments they may wish to submit about the proposed rule change.

Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2019–51 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2019–51. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2019–51 and should be submitted by November 19, 2019. Rebuttal comments should be submitted by December 3, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–23549 Filed 10–28–19; 8:45 am]

BILLING CODE 8011–01–P

[23] Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[24] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copy Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 31a–2, SEC File No. 270–174, OMB Control No. 3235–0179

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension of the previously approved collection of information discussed below.

Section 31(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (the "Act") requires registered investment companies ("funds") and certain underwriters, broker-dealers, investment advisers, and depositors to maintain and preserve records as prescribed by Commission rules. Rule 31a–1 (17 CFR 270.31a–1) under the Act specifies the books and records that each of these entities must maintain. Rule 31a–2 (17 CFR 270.31a–2) under the Act specifies the time periods that entities must retain certain books and records, including those required to be maintained under rule 31a–1.

The retention of records, as required by the rule, is necessary to ensure access to material business and financial information about funds and certain related entities. We periodically inspect the operations of funds to ensure they are in compliance with the Act and regulations under the Act. Due to the limits on our resources, however, each fund may only be inspected at intervals of several years. In addition, the prosecution of persons who have engaged in certain violations of the federal securities laws may not be limited by timing restrictions. For these reasons, we often need information relating to events or transactions that occurred years ago. Without the requirement to preserve books, records, and other documents, our staff would have difficulty determining whether the fund was in compliance with the law in such areas as valuation of its portfolio securities, computation of the prices investors paid, and, when purchasing and selling fund shares, types and amounts of expenses the fund incurred, kinds of investments the fund purchased, actions of affiliated persons, or whether the fund had engaged in any illegal or fraudulent activities. As part of our examinations of funds, our staff also reviews the materials that directors consider in approving the advisory contract.

There are 3,160 funds currently operating as of December 31, 2018, all of which are required to comply with rule 31a–2. The Commission staff estimates that, on average, a fund spends 220.4 hours annually to comply with the rule. The Commission therefore estimates the total annual hour burden of the rule's and form's paperwork requirements to be 696,464 hours. In addition to the burden hours, the Commission staff estimates that the average yearly cost to each fund that is subject to rule 31a–2 is about $36,510.28. The Commission estimates total annual cost is therefore about $115.4 million.

Estimates of average burden hours and costs are made solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the costs of Commission rules and forms. Compliance with the collection of information requirements of the rule is mandatory. Responses to the disclosure requirements will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The public may view the background documentation for this information collection at the following website: *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Lindsay.M.Abate@omb.eop.gov*; and (ii) Charles Riddle, Acting Director and Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549 or by sending an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: October 24, 2019.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–23596 Filed 10–28–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 17a–3, SEC File No. 270–026, OMB Control No. 3235–0033

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information provided for in Rule 17a–3 (17 CFR 240.17a–3), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 17a–3 under the Securities Exchange Act of 1934 establishes minimum standards with respect to business records that broker-dealers registered with the Commission must make and keep current. These records are maintained by the broker-dealer (in accordance with a separate rule), so they can be used by the broker-dealer and reviewed by Commission examiners, as well as other regulatory authority examiners, during inspections of the broker-dealer.

The collections of information included in Rule 17a–3 are necessary to provide Commission, self-regulatory organization and state examiners to conduct effective and efficient examinations to determine whether broker-dealers are complying with relevant laws, rules, and regulations. If broker-dealers were not required to create these baseline, standardized records, Commission, self-regulatory organization and state examiners could be unable to determine whether broker-dealers are in compliance with the Commission's antifraud and anti-manipulation rules, financial responsibility program, and other Commission, SRO, and State laws, rules, and regulations.

As of December 31, 2018 there were 3,764 broker-dealers registered with the Commission. The Commission estimates that these broker-dealer respondents incur a total burden of 2,893,773 hours per year to comply with Rule 17a–3.

In addition, Rule 17a–3 contains ongoing operation and maintenance costs for broker-dealers, including the cost of postage to provide customers with account information, and costs for equipment and systems development. The Commission estimates that under Rule 17a–3(a)(17), approximately 45,633,482 customers will need to be provided with information regarding their account on a yearly basis. The Commission estimates that the postage costs associated with providing those customers with copies of their account record information would be approximately $16,321,719 per year (45,633,482 × $0.35).[1] The staff estimates that broker-dealers establishing liquidity, credit, and market risk management controls pursuant to Rule 17a–3(a)(23) incur one-time startup costs of $912,000, or $304,000 amortized over a three-year approval period, to hire outside counsel to review the controls. The staff further estimates that the ongoing equipment and systems development costs relating to Rule 17a–3 for the industry would be about $37,446,686 per year. Consequently, the total cost burden associated with Rule 17a–3 would be approximately $54,072,405 per year.

[1] Estimates of postage costs are derived from past conversations with industry representatives and have been adjusted to account for inflation and increases in postage costs.

Rule 17a–3 does not contain record retention requirements. Compliance with the rule is mandatory. The required records are available only to the staffs of the Commission, self-regulatory organizations of which the broker-dealer is a member, and the states during examination, inspections and investigations.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view the background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: October 24, 2019.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–23598 Filed 10–28–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 17a–10, OMB Control No. 3235–0563, SEC File No. 270–507

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995

(44 U.S.C. 3501 *et seq.*) (''PRA'') the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Section 17(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (the ''Act''), generally prohibits affiliated persons of a registered investment company (''fund'') from borrowing money or other property from, or selling or buying securities or other property to or from, the fund or any company that the fund controls.[1] Section 2(a)(3) of the Act defines ''affiliated person'' of a fund to include its investment advisers.[2] Rule 17a–10 (17 CFR 270.17a–10) permits (i) a subadviser [3] of a fund to enter into transactions with funds the subadviser does not advise but that are affiliated persons of a fund that it does advise (*e.g.,* other funds in the fund complex), and (ii) a subadviser (and its affiliated persons) to enter into transactions and arrangements with funds the subadviser does advise, but only with respect to discrete portions of the subadvised fund for which the subadviser does not provide investment advice.

To qualify for the exemptions in rule 17a–10, the subadvisory relationship must be the sole reason why section 17(a) prohibits the transaction. In addition, the advisory contracts of the subadviser entering into the transaction, and any subadviser that is advising the purchasing portion of the fund, must prohibit the subadvisers from consulting with each other concerning securities transactions of the fund, and limit their responsibility to providing advice with respect to discrete portions of the fund's portfolio.[4] This requirement regarding the prohibitions and limitations in advisory contracts of subadvisors relying on the rule constitutes a collection of information under the PRA.[5]

The staff assumes that all existing funds with subadvisory contracts amended those contracts to comply with the adoption of rule 17a–10 in 2003, which conditioned certain exemptions upon these contractual alterations, and therefore there is no continuing burden for those funds.[6] However, the staff assumes that all newly formed subadvised funds, and funds that enter into new contracts with subadvisers, will incur the one-time burden by amending their contracts to add the terms required by the rule.

Based on an analysis of fund filings, the staff estimates that approximately 221 funds enter into new subadvisory agreements each year.[7] Based on discussions with industry representatives, the staff estimates that it will require approximately 3 attorney hours to draft and execute additional clauses in new subadvisory contracts in order for funds and subadvisers to be able to rely on the exemptions in rule 17a–10. Because these additional clauses are identical to the clauses that a fund would need to insert in their subadvisory contracts to rely on rules 10f–3 (17 CFR 270.10f–3), 12d3–1 (17 CFR 270.12d3–1), and 17e–1 (17 CFR 270.17e–1), and because we believe that funds that use one such rule generally use all of these rules, we apportion this 3 hour time burden equally among all four rules. Therefore, we estimate that the burden allocated to rule 17a–10 for this contract change would be 0.75 hours.[8] Assuming that all 221 funds that enter into new subadvisory contracts each year make the modification to their contract required by the rule, we estimate that the rule's contract modification requirement will result in 166 burden hours annually, with an associated cost of approximately $68,890.[9]

The estimate of average burden hours is made solely for the purposes of the PRA. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Complying with this collection of information requirement is necessary to obtain the benefit of relying on rule 17a–10. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Lindsay.M.Abate@omb.eop.gov;* and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: October 24, 2019.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–23599 Filed 10–28–19; 8:45 am]

BILLING CODE 8011–01–P

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[1] 15 U.S.C. 80a–17(a).

[2] 15 U.S.C. 80a–2(a)(3)(E).

[3] As defined in rule 17a–10(b)(2). 17 CFR 270.17a–10(b)(2).

[4] 17 CFR 270.17a–10(a)(2).

[5] 44 U.S.C. 3501.

[6] Transactions of Investment Companies With Portfolio and Subadviser Affiliates, Investment Company Act Release No. 25888 (Jan. 14, 2003) [68 FR 3153 (Jan. 22, 2003)]. We assume that funds formed after 2003 that intended to rely on rule 17a–10 would have included the required provision as a standard element in their initial subadvisory contracts.

[7] Based on data from Morningstar, as of March 2019, there are 12,407 registered funds (open-end funds, closed-end funds (including interval funds), and exchange-traded funds), 4,609 funds of which have subadvisory relationships (approximately 37%). Based on data from the 2019 ICI publications, 597 new funds were established in 2018 (582 open-end funds and exchange-traded funds (from the 2019 ICI Fact Book) + 15 closed-end funds (from the ICI Research Perspective, April 2019)). 597 new funds × 37% = 221 funds.

[8] This estimate is based on the following calculation: 3 hours ÷ 4 rules = 0.75 hours.

[9] These estimates are based on the following calculations: (0.75 hours × 221 portfolios = 166 burden hours); ($415 per hour × 166 hours = $68,890 total cost). The Commission's estimates concerning the wage rates for attorney time are based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association. The estimated wage figure is based on published rates for in-house attorneys, modified to account for a 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead, yielding an effective hourly rate of $415. *See* Securities Industry and Financial Markets Association, Report on Management & Professional Earnings in the Securities Industry 2013.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33675; File No. 812–15052]

MassMutual Select Funds, et al.

October 23, 2019.

AGENCY: Securities and Exchange Commission (the ''Commission'').

ACTION: Notice.

Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 12(d)(1)(A), (B), and (C) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act. The requested order would permit certain registered open-end investment companies to acquire shares of certain registered open-end investment companies, registered closed-end investment companies, and business development companies (''BDCs''), as defined in section 2(a)(48) of the Act, and registered unit investment trusts (''UITs'') (collectively, the ''Underlying Funds'') that are within and outside the same group of investment companies as the acquiring investment companies, in excess of the limits in section 12(d)(1) of the Act.

APPLICANTS: MassMutual Select Funds, MassMutual Premier Funds, MML Series Investment Fund, and MML Series Investment Fund II (each a ''Trust,'' and collectively, the ''Trusts''), is each organized as a Massachusetts business trust and registered with the Commission under the Act as an open-end management investment company with multiple series, each of which has its own investment objectives and principal investment strategies. MML Investment Advisers, LLC, the adviser to the Trusts, is organized as a limited liability company established under the laws of the state of Delaware and is registered as an investment adviser under section 203 of the Investment Advisers Act of 1940.

FILING DATES: The application was filed on July 26, 2019, and amended on October 17, 2019.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 18, 2019, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090. Applicants: Andrew M. Goldberg, Esq., MML Investment Advisers, LLC, 100 Bright Meadow Blvd., Enfield, CT 06082, with copies to Timothy W. Diggins, Esq. and Yana D. Guss, Esq., Ropes & Gray LLP, Prudential Tower, 800 Boylston Street, Boston, MA 02199–3600.

FOR FURTHER INFORMATION CONTACT: Edward J. Rubenstein, Senior Special Counsel, at (202) 551–6854, or Nadya B. Roytblat, Assistant Chief Counsel, at (202) 551–6823 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *https://www.sec.gov/search/search.htm,* or by calling (202) 551–8090.

Summary of the Application

1. Applicants request an order to permit (a) each Fund [1] (and each a ''Fund of Funds'') to acquire shares of Underlying Funds [2] in excess of the limits in sections 12(d)(1)(A) and (C) of the Act, and (b) each Underlying Fund that is a registered open-end management investment company or series thereof, their principal underwriters, and any broker or dealer registered under the 1934 Act to sell shares of the Underlying Funds to the Fund of Funds in excess of the limits in section 12(d)(1)(B) of the Act.[3] Applicants also request that the Commission issue an order under sections 6(c) and 17(b) of the Act from the prohibition on certain affiliated transactions in section 17(a) of the Act to the extent necessary to permit the Underlying Funds to sell their shares to, and redeem their shares from, the Funds of Funds.[4] Applicants state that such transactions will be consistent with the policies of each Fund of Funds and each Underlying Fund and with the general purposes of the Act and will be based on the net asset values of the Underlying Funds.

2. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the application. Such terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over an Underlying Fund that is not in the same ''group of investment companies'' as the Fund of Funds through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A), (B), and (C) of the Act.

3. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any persons, securities, or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

[1] Applicants request that the order apply not only to the existing series of the Trusts (the ''Existing Funds''), but that the order also extend to any future series of each Trust and any other existing or future registered open-end management investment companies and any series thereof that are part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act, as the Trusts are, or may in the future be, advised by the Adviser or any other investment adviser controlling, controlled by, or under common control with the Adviser (together with the Existing Funds, each series a ''Fund,'' and collectively, the ''Funds''). For purposes of the request for relief, the term ''group of investment companies'' means any two or more registered investment companies, including closed-end investment companies and BDCs, that hold themselves out to investors as related companies for purposes of investment and investor services.

[2] Certain of the Underlying Funds registered under the Act as either UITs or open-end management investment companies may have requested and obtained exemptions from the Commission necessary to permit their shares to be listed and traded on a national securities exchange at negotiated prices and, accordingly, to operate as exchange-traded funds (collectively, ''ETFs'' and each an ''ETF'').

[3] Applicants are not requesting relief for a Fund of Funds to invest in BDCs and registered closed-end investment companies that are not listed and traded on a national securities exchange.

[4] A Fund of Funds generally would purchase and sell shares of an Underlying Fund that operates as an ETF or closed-end fund through secondary market transactions rather than through principal transactions with the Underlying Fund. Applicants nevertheless request relief from sections 17(a)(1) and (2) to permit each ETF or closed-end fund that is an affiliated person, or an affiliated person of an affiliated person, as defined in section 2(a)(3) of the Act, of a Fund of Funds, to sell shares to or redeem shares from the Fund of Funds. This includes, in the case of sales and redemptions of shares of ETFs, the in-kind transactions that accompany such sales and redemptions. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where an ETF, BDC, or closed-end fund could be deemed an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds because an investment adviser to the ETF, BDC, or closed-end fund, or an entity controlling, controlled by, or under common control with the investment adviser to the ETF, BDC, or closed-end fund, is also an investment adviser to the Fund of Funds.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–23554 Filed 10–28–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 237 30-Day Notice (2019), SEC File No. 270–465, OMB Control No. 3235–0528

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension and approval of the collection of information discussed below.

In Canada, as in the United States, individuals can invest a portion of their earnings in tax-deferred retirement savings accounts (''Canadian retirement accounts''). These accounts, which operate in a manner similar to individual retirement accounts in the United States, encourage retirement savings by permitting savings on a tax-deferred basis. Individuals who establish Canadian retirement accounts while living and working in Canada and who later move to the United States (''Canadian-U.S. Participants'' or ''participants'') often continue to hold their retirement assets in their Canadian retirement accounts rather than prematurely withdrawing (or ''cashing out'') those assets, which would result in immediate taxation in Canada.

Once in the United States, however, these participants historically have been unable to manage their Canadian retirement account investments. Most securities that are ''qualified investments'' for Canadian retirement accounts are not registered under the U.S. securities laws. Those securities, therefore, generally cannot be publicly offered and sold in the United States without violating the registration requirement of the Securities Act of 1933 (''Securities Act'').[1] As a result of this registration requirement, Canadian-U.S. Participants previously were not able to purchase or exchange securities for their Canadian retirement accounts as needed to meet their changing investment goals or income needs.

The Commission issued a rulemaking in 2000 that enabled Canadian-U.S. Participants to manage the assets in their Canadian retirement accounts by providing relief from the U.S. registration requirements for offers of securities of foreign issuers to Canadian-U.S. Participants and sales to Canadian retirement accounts.[2] Rule 237 under the Securities Act[3] permits securities of foreign issuers, including securities of foreign funds, to be offered to Canadian-U.S. Participants and sold to their Canadian retirement accounts without being registered under the Securities Act.

Rule 237 requires written offering documents for securities offered and sold in reliance on the rule to disclose prominently that the securities are not registered with the Commission and are exempt from registration under the U.S. securities laws. The burden under the rule associated with adding this disclosure to written offering documents is minimal and is non-recurring. The foreign issuer, underwriter, or broker-dealer can redraft an existing prospectus or other written offering material to add this disclosure statement, or may draft a sticker or supplement containing this disclosure to be added to existing offering materials. In either case, based on discussions with representatives of the Canadian fund industry, the staff estimates that it would take an average of 10 minutes per document to draft the requisite disclosure statement.

The Commission understands that there are approximately 2,412 Canadian issuers other than funds that may rely on rule 237 to make an initial public offering of their securities to Canadian-U.S. Participants.[4] The staff estimates that in any given year approximately 24 (or 1 percent) of those issuers are likely to rely on rule 237 to make a public offering of their securities to participants, and that each of those 24 issuers, on average, distributes 3 different written offering documents concerning those securities, for a total of 72 offering documents.

The staff therefore estimates that during each year that rule 237 is in effect, approximately 36 respondents[5] would be required to make 72 responses by adding the new disclosure statements to approximately 72 written offering documents. Thus, the staff estimates that the total annual burden associated with the rule 237 disclosure requirement would be approximately 12 hours (72 offering documents × 10 minutes per document). The total annual cost of burden hours is estimated to be $4,980 (12 hours × $415 per hour of attorney time).[6]

In addition, issuers from foreign countries other than Canada could rely on rule 237 to offer securities to Canadian-U.S. Participants and sell securities to their accounts without becoming subject to the registration requirements of the Securities Act. However, the staff believes that the number of issuers from other countries that rely on rule 237, and that therefore are required to comply with the offering document disclosure requirements, is negligible.

These burden hour estimates are based upon the Commission staff's experience and discussions with the fund industry. The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. These estimates are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

Compliance with the collection of information requirements of the rule is mandatory and is necessary to comply with the requirements of the rule in general. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

[1] 15 U.S.C. 77. In addition, the offering and selling of securities of investment companies (''funds'') that are not registered pursuant to the Investment Company Act of 1940 (''Investment Company Act'') is generally prohibited by U.S. securities laws. 15 U.S.C. 80a.

[2] *See* Offer and Sale of Securities to Canadian Tax-Deferred Retirement Savings Accounts, Release Nos. 33–7860, 34–42905, IC–24491 (June 7, 2000) [65 FR 37672 (June 15, 2000)]. This rulemaking also included new rule 7d–2 under the Investment Company Act, permitting foreign funds to offer securities to Canadian-U.S. Participants and sell securities to Canadian retirement accounts without registering as investment companies under the Investment Company Act. 17 CFR 270.7d–2.

[3] 17 CFR 230.237.

[4] This estimate is based on the following calculation: 2,322 equity issuers + 90 bond issuers = 2,412 total issuers (as of Dec. 2018). *See* The MiG Report, Toronto Stock Exchange and TSX Venture Exchange (Dec. 2018) (providing number of equity and bond issuers on the Toronto Exchange).

[5] This estimate of respondents only includes foreign issuers. The number of respondents would be greater if foreign underwriters or broker-dealers draft stickers or supplements to add the required disclosure to existing offering documents.

[6] The Commission's estimate concerning the wage rate for attorney time is based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association (''SIFMA''). The $415 per hour figure for an attorney is from SIFMA's *Management & Professional Earnings in the Securities Industry 2013,* modified by Commission staff to account for an 1,800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, overhead, and inflation.

The public may view the background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Lindsay.M.Abate@omb.eop.gov;* and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: October 24, 2019.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–23602 Filed 10–28–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rules 17Ad–22—Standards for Clearing Agencies, SEC File No. 270–646, OMB Control No. 3235–0695

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 17Ad–22 (17 CFR 240.17Ad–22) under the Securities Exchange Act of 1934 (''Exchange Act'') (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17Ad–22 was adopted to strengthen the substantive regulation of clearing agencies, promote the safe and reliable operation of covered clearing agencies, and improve efficiency, transparency, and access to covered clearing agencies.[1] The total estimated annual burden of Rule 17Ad–22 is 8,091 hours, and the total estimated annual cost is $13,397,120.

[1] *See* 17 CFR 240.17Ad–22; *see also* Exchange Act Release No. 34–68080 (Oct. 22, 2012), 77 FR 66219, 66225–26 (Nov. 2, 2012).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (b) the accuracy of the Commission staff's estimates of the burden of the proposed collection of information; (c) the ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: October 24, 2019.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–23597 Filed 10–28–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87391; File No. SR–NASDAQ–2019–057]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend Rule 4121

October 23, 2019.

I. Introduction

On July 16, 2019, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Nasdaq Rule 4121 (Trading Halts Due to Extraordinary Market Volatility) to enhance the re-opening auction process for Nasdaq-listed securities following trading halts due to extraordinary market volatility. The proposed rule change was published for comment in the **Federal Register** on July 25, 2019.[3] On September 5, 2019, the Commission extended the time period within which to either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change, to October 23, 2019.[4] The Commission received no comment letters on the proposed rule change. This order institutes proceedings under Section 19(b)(2)(B) of the Act to determine whether to approve or disapprove the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Background and Description of the Proposal

The Exchange has proposed to amend the re-opening auction process for Nasdaq-listed securities following trading halts due to extraordinary market volatility (''market-wide circuit breakers'').[5] Currently, after a Level 1 or Level 2 market-wide circuit breaker trading halt initiated under Nasdaq Rule 4121 (''MWCB Halt''), trading in Nasdaq-listed securities would resume on the Exchange through a Halt Cross.[6] Additionally, the Exchange would extend the Display Only Period for an additional 1-minute period if there is volatility during the Display Only Period (*i.e.,* an order imbalance in the security). The volatility checks are governed under Nasdaq Rule 4120(c)(7)(C)(1) and (2), and provide that the Display Only Period will be extended if: (i) The expected cross price moves the greater of 5% or 50 cents, or (ii) all market orders will not be executed in the cross.

The Exchange proposes modifications to its rules that would allow it to instead follow a process it believes is similar to that described in Nasdaq Rule 4120(c)(10) for releasing a security

[3] See Securities Exchange Act Release No. 86412 (July 19, 2019), 84 FR 35900 (''Notice'').

[4] See Securities Exchange Act Release No. 86875 (September 11, 2019), 84 FR 47998.

[5] The Exchange also proposes a number of formatting clean-ups in Nasdaq Rule 4121. *See* Notice, *supra* note 3, at 35903.

[6] In particular, Nasdaq Rule 4121(c)(i) provides that the re-opening of trading following a Level 1 or Level 2 trading halt shall follow the procedures set forth in Nasdaq Rule 4120. The Exchange states that these procedures are set forth in Nasdaq Rule 4120(c)(7) (*see* Notice, *supra* note 3, at 35901), which provides, in relevant part, for a 5-minute Display Only Period during which market participants may enter quotes and orders in Nasdaq systems, at the conclusion of which trading will immediately resume through the Halt Cross under Nasdaq Rule 4753.

following a Trading Pause initiated pursuant to the Plan to Address Extraordinary Market Volatility (''LULD'' or ''LULD Plan'').[7] Proposed paragraph (d) to Nasdaq Rule 4121 provides that an MWCB Halt shall be terminated when Nasdaq releases the security for trading. For any such security listed on Nasdaq, prior to terminating the MWCB Halt, there will be a 15-minute ''Initial Display Only Period'' during which market participants may enter quotations and orders in that security in Nasdaq systems. The Initial Display Only Period will be 15 minutes in duration to coincide with the entire duration of an MWCB Halt.

Proposed Nasdaq Rule 4121(d)(1)(A) provides that during the Initial Display Only Period, the Exchange will also establish the ''Auction Reference Price,'' which is the Nasdaq last sale price (either round or odd lot) after 9:15 a.m. Eastern Time but prior to the MWCB Halt and, if none, the prior trading day's Nasdaq Official Closing Price.[8]

Proposed Nasdaq Rule 4121(d)(1)(B) describes how the Exchange would calculate the upper and lower MWCB Auction Collar prices during the Initial Display Period. The lower MWCB Auction Collar is derived by subtracting from the Auction Reference Price 10% of the Auction Reference Price, or in the case of securities with an Auction Reference Price of $5 or less, $0.50. The upper MWCB Auction Collar is derived by adding to the Auction Reference Price 10% of the Auction Reference Price, rounded to the nearest minimum price increment, or in the case of securities with an Auction Reference Price of $5 or less, $0.50.[9]

Proposed Nasdaq Rules 4121(d)(2) and (d)(3) specify the circumstances when the Exchange would extend the Display Only Period for an MWCB Halt re-opening process, and how the Exchange would adjust the MWCB Auction Collars for each extension. In particular, at the conclusion of the Initial Display Only Period, the security will be released for trading unless, at the end of the Initial Display Only Period, Nasdaq detects an order imbalance in the security. In that case, Nasdaq will extend the Display Only Period for an additional 5-minute period (''Extended Display Only Period''), and the MWCB Auction Collar prices will be adjusted as follows:

- If the Display Only Period is extended because the calculated price at which the security would be released for trading is below the lower MWCB Auction Collar price or all sell market orders would not be executed in the cross, then the new lower MWCB Auction Collar price is derived by subtracting 10% of the Auction Reference Price, which was rounded to the nearest minimum price increment, or in the case of securities with an Auction Reference Price of $5 or less, $0.50, from the previous lower MWCB Auction Collar price, and the upper MWCB Auction Collar price will not be changed.
- If the Display Only Period is extended because the calculated price at which the security would be released for trading is above the upper MWCB Auction Collar price or all buy market orders would not be executed in the cross, then the new upper MWCB Auction Collar price is derived by adding 10% of the Auction Reference Price, which was rounded to the nearest minimum price increment, or in the case of securities with an Auction Reference Price of $5 or less, $0.50, to the previous upper MWCB Auction Collar price, and the lower MWCB Auction Collar price will not be changed.

At the conclusion of the Extended Display Only Period, the security will be released for trading unless, at the end of the Extended Display Only Period, Nasdaq detects an order imbalance in the security. In that case, Nasdaq will further extend the Display Only Period, continuing to adjust the MWCB Auction Collar prices every five minutes in the manner described in proposed Nasdaq Rule 4121(d)(2) until the security is released for trading; provided, however, that Nasdaq will not adjust the MWCB Auction Collar prices past 50% of the Auction Reference Price for any security during any Extended Display Only Period.[10] During any additional Extended Display Only Period after the first Extended Display Only Period, Nasdaq shall release the security for trading at the first point there is no order imbalance.

Proposed Nasdaq Rule 4121(d)(4) specifies that an order imbalance would be established for purposes of the process under Nasdaq Rule 4121 as follows:

- The calculated price at which the security would be released for trading is above (below) the upper (lower) MWCB Auction Collar price calculated under paragraphs (1), (2), or (3) of Nasdaq Rule 4121(d); or
- all market orders would not be executed in the cross.

Proposed Nasdaq Rule 4121(d)(5) describes how the MWCB Auction Collars will function in the event of more than one trading halt initiated under Nasdaq Rule 4121 in the same day. In the event of a Level 2 Market Decline while a security is in a Level 1 MWCB Halt and has not been released

[7] The Exchange believes that its LULD re-opening process has been effective in facilitating a fair and orderly market following Trading Pauses initiated pursuant to the LULD Plan, and believes it is implementing similar functionality for trading halts in Nasdaq-listed securities following the initiation of market-wide circuit breakers. The Exchange further believes that the proposed changes would promote price formation and provide a more consistent re-opening process for members and investors following such trading halts, similar to the current implementations for re-opening following an MWCB Halt on NYSE Arca, Inc. (''Arca'') and Cboe BZX Exchange, Inc. (''BZX''). *See* Notice, *supra* note 3, at 35900–01.

[8] The Exchange believes its proposal is similar to the current implementations on Arca and BZX for re-openings following an MWCB Halt. *See* Arca Rule 7.35–E(a)(8)(A) and BZX Rule 11.23(a)(9). The Exchange states that the proposed Auction Reference Price for MWCB Halts is substantially similar to Arca's and BZX's auction reference prices, except the Exchange will use the last Nasdaq sale price prior to the MWCB Halt, as opposed to the last consolidated price. The Exchange believes that it is appropriate to use the price of a trade on the primary listing market to set the reference price for auctions in Nasdaq-listed securities when such a trade has been executed recently. *See* Notice, *supra* note 3, at 35902.

[9] The Exchange notes that both Arca and BZX employ narrower auction collar thresholds (5% of the auction reference price, or $0.15 for securities with an auction reference price of $3 or less). *See* Arca Rule 7.35–E(e)(7)(B)(ii) and BZX Rule 11.23(d)(2)(C)(i)(B). The Exchange believes that the wider parameters proposed for MWCB Auction Collars are set at appropriate levels that would allow the Exchange to re-open trading in securities more quickly while still reducing the potential to re-open at a price that is significantly away from the last traded price of the security. The Exchange also notes that it has traditionally been a listing venue for equity stocks, while Arca and BZX have traditionally listed more ETFs, which track entire sectors, indices or other groups of assets and can mute the effect of price volatility of the ETF. The Exchange believes that the proposed wider price bands strikes an appropriate balance between allowing the Exchange to return to normal continuous trading in a measured, timely manner while accommodating the potential higher volatility of individual stocks. *See* Notice, *supra* note 3, at 35902.

[10] The Exchange notes that the proposal to limit the MWCB Auction Collars to 50% of the Auction Reference Price deviates from the implementations of MWCB auction collars on Arca and BZX, neither of which limit the auction collars. The Exchange states that it balanced the potential for the proposed 50% limit to prevent the transition to continuous trading, particularly in instances of extreme price volatility that could result in increased Extended Display Only Periods against the potential for extreme volatility resulting in trades at prices far away from a security's fundamental value, which could ultimately harm parties to the trade. The Exchange believes that an MWCB Halt will be triggered during a period of significant volatility across markets that may not correlate to the fundamental value of a single security and that limiting the MWCB Auction Collars to 50% of the Auction Reference Price achieves an appropriate balance in favor of preventing extraordinary volatility that could result in significant price disparity in post-auction trading. *See* Notice, *supra* note 3, at 35903.

for trading, Nasdaq will recalculate the lower and upper MWCB Auction Collar prices in the particular security in accordance with paragraph (B)(1) of proposed Nasdaq Rule 4121.[11] In this instance, the Exchange will start the calculation of the new upper and lower MWCB Auction Collar prices using 10% of the Auction Reference Price, rounded to the nearest minimum price increment, or $0.50 for securities with an Auction Reference Price of $5 or less. The Exchange believes that the proposed language would bring greater transparency to market participants in how the Exchange would handle the calculation of MWCB Auction Collars.

The Exchange also proposes to add new paragraph (e) to Nasdaq Rule 4121 to describe how the Exchange will handle the publication of MWCB Halt Information. Specifically, at the beginning of the Initial Display Only Period and continuing through the resumption of trading, Nasdaq will disseminate by electronic means an Order Imbalance Indicator [12] every second. The Exchange also proposes to make a related change by adding new Nasdaq Rule 4753(a)(3)(G), which will provide that for purposes of an MWCB Halt initiated pursuant to Nasdaq Rule 4121, the Order Imbalance Indicator will include Auction Reference Prices and MWCB Auction Collars, as defined in Nasdaq Rule 4121(d).

III. Proceedings To Determine Whether To Disapprove SR–NASDAQ–2019–057 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act to determine whether the proposal should be approved or disapproved.[13] Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change, as discussed below. Institution of disapproval proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved.

Pursuant to Section 19(b)(2)(B) of the Act, the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis and input concerning the proposed rule change's consistency with the Act [14] and, in particular, with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.[15]

For the reasons discussed above, the Commission believes it is appropriate to institute proceedings pursuant to Section 19(b)(2)(B) of the Act to determine whether the proposal should be approved or disapproved.

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the concerns identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is inconsistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulation thereunder. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[16]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by November 19, 2019. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by December 3, 2019. The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal which are set forth in the Notice,[17] in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks comment, including where relevant, any specific data, statistics, or studies, on the following:

1. The Nasdaq proposal appears to differ from other primary listing market MWCB re-opening processes in three ways. First, the Nasdaq proposal would establish a security's auction reference price after a MWCB Halt by referring to the Nasdaq last sale price (as opposed to the consolidated last sale price). Second, the Nasdaq proposal would establish wider price bands of 10% of the Auction Reference Price, or in the case of securities with an Auction Reference Price of $5 or less, $0.50 (as opposed to 5% of the auction reference price, or $0.15 for securities with an auction reference price of $3), and would widen the price bands in those larger increments (as opposed to widening in the smaller increments). Third, the Nasdaq proposal would not widen the price bands for an individual security beyond 50% (as opposed gradually widening price bands without limit until a security is reopened). Should the primary listing exchanges harmonize their respective processes for reopening trading after a halt pursuant to the market-wide circuit breaker mechanism following a Level 1 or Level 2 Market Decline, and if so, why? If so which aspects of the re-opening processes should be harmonized (*e.g.,* period of auction order entry, type of auction information disseminated, length of dissemination period, frequency of dissemination, auction reference price, determination of auction match price, width of auction collars, reasons for extending auction, length of auction extension period, thresholds for expanding auction collars, or limits on expansion of auction collars) and what are the appropriate parameters? Should Nasdaq further harmonize its proposed MWCB reopening process to align with Arca and BZX on establishment of auction reference prices, auction collars levels, and/or the limit (or lack thereof) on auction collar adjustments?

2. Is it appropriate for the Exchange to derive and expand the lower/upper MWCB Auction Collar by subtracting from/adding to the Auction Reference Price 10% of the Auction Reference Price (or $0.50 for securities priced $5 or less), which are currently wider than

[11] As currently provided in Nasdaq Rule 4121(b)(i), the Exchange would halt trading based on a Level 1 or Level 2 Market Decline only once per day.

[12] As described in Nasdaq Rule 4753(a)(3), an ''Order Imbalance Indicator'' is a message disseminated by electronic means containing information about Eligible Interest and the price at which such interest would execute at the time of dissemination. ''Eligible Interest'' is defined as any quotation or any order that has been entered into the system and designated with a time-in-force that would allow the order to be in force at the time of the Halt Cross. *See* Nasdaq Rule 4753(a)(5).

[13] 15 U.S.C. 78s(b)(2)(B).

[14] 15 U.S.C. 78f(b)(5).

[15] *Id.*

[16] Section 19(b) (2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[17] *See* Notice, *supra* note 3.

the parameters that Arca and BZX use to derive and expand their respective MWCB auction collars? Are there any specific data, statistics, or studies to support the Exchange's belief that (1) the wider parameters proposed for MWCB Auction Collars are set at appropriate levels that would allow the Exchange to re-open trading in securities more quickly while still reducing the potential to re-open at a price that is significantly away from the last traded price of the security and (2) the wider parameters are appropriate because the Exchange has traditionally been a listing venue for equity stocks as contrasted with Arca and BZX which have traditionally listed more ETFs, which can mute the effect of price volatility? [18]

3. Is it appropriate for the Exchange to not adjust the MWCB Auction Collar prices past 50% of the Auction Reference Price for any security during any Extended Display Only Period? Are there any specific data, statistics, or studies to support the Exchange's belief that (1) without this limitation, there is potential for extreme volatility resulting in trades at prices far away from a security's fundamental value, ultimately harming investors that are party to the trade and (2) it may be more appropriate to continue adjusting price collars in the context of LULD where trading is halted due to a period of extraordinary volatility in a single security because there may be instances of a discrete event that ultimately impacts the value of the individual security and that an MWCB Halt will be triggered during a period of significant volatility across markets that may not correlate to the fundamental value of a single security? [19]

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2019–057 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2019–057. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NASDAQ–2019–057 and should be submitted on or before November 19, 2019. Rebuttal comments should be submitted by December 3, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–23548 Filed 10–28–19; 8:45 am]

BILLING CODE 8011–01–P

[18] *See* Notice, *supra* note 3, at 35902.

[19] *See id.* at 35903.

[20] 17 CFR 200.30–3(a)(57).

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2019–0239]

Hours of Service of Drivers: Application for Exemption; Small Business in Transportation Coalition

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that the Small Business in Transportation Coalition (SBTC) seeks reconsideration of its application for exemption from the electronic logging device (ELD) rule that was denied by the Agency on July 17, 2019. SBTC has resubmitted its application for exemption from the ELD requirements for all motor carriers with fewer than 50 employees, including, but not limited to, one-person private and for-hire owner-operators of commercial motor vehicles used in interstate commerce. SBTC believes that the exemption would not have any adverse impacts on operational safety as motor carriers and drivers would remain subject to the hours-of-service (HOS) regulations as well as the requirements to maintain paper records of duty status (RODs). FMCSA requests public comment on SBTC's application for reconsideration.

DATES: Comments must be received on or before November 29, 2019.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA–2019–0239 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* See the *Public Participation and Request for Comments* section below for further information.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.
- Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the *Privacy Act* heading below.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: (202) 366–4325; Email: *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2019–0239), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comments online, go to *www.regulations.gov* and put the docket number, ''FMCSA–2019–0239'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may grant or not grant this application based on your comments.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Background

On December 16, 2015, FMCSA published the Electronic Logging Devices and Hours of Service Supporting Documents final rule (80 FR 78292). The ELD rule applies to most motor carriers and drivers who are required to keep RODS. The compliance date for the ELD requirement was December 18, 2017.

On June 5, 2018, FMCSA published SBTC's application for exemption and requested public comment (83 FR 26140). SBTC reports it is a non-profit trade organization with more than 8,000 members. SBTC states that it ''represents, promotes, and protects the interest of small businesses in the transportation industry. Through the exemption application, SBTC sought relief from the ELD requirements for small private, common and contract motor carriers with fewer than 50 employees.'' SBTC argued:

> ''[T]he ELD rule is not a ''safety regulation'' per se as the FMCSA has concluded. Rather it is a mechanism intended to enforce a safety regulation by regulating the manner in which a driver records and communicates his compliance. That is, it is merely a tool to determine compliance with an existing rule that regulates over-the-road drivers' driving and on duty time, namely the actual safety regulation: the [hours-of- service] regulations codified at 49 CFR 395.3 and 395.5. However, the ELD rule is not a safety regulation itself. Therefore, it is our position that this rule does *not* itself impact safety, and that the level of safety will not change based on whether or not our exemption application is approved. That would require a change to the [hours-of-service rules].''

On July 9, 2018, FMCSA extended the public comment period at the request of the SBTC (83 FR 31836). The Agency received more than 1,900 comments to the docket [Docket No. FMCSA–2018–0180]. Most of the comments favored granting the exemption. On July 17, 2019, the Agency published notice of its decision to deny SBTC's application for exemption (84 FR 34250) and listed the following reasons for the denial:

- Failing to provide the name of the individual or motor carrier that would be responsible for the use or operation of CMVs under the exemption [49 CFR 381.310(b)(2)];
- Failing to provide an estimate of the total number of drivers and CMVs that would be operated under the terms and conditions of the exemption [§ 381.310(c)(3)]; and
- Failing to explain how an equivalent level of safety would be achieved [§ 381.310(c)(5)].

IV. Request for Reconsideration of Agency Decision

Through this application SBTC is requesting FMCSA to reconsider its denial of the exemption from the ELD rule. SBTC provided responses to each of FMCSA's reasons for denying its application. According to SBTC the reason for not providing an estimate of the number of drivers and CMVs that would be operating under the exemption is that SBTC is a trade group, not a single carrier. SBTC argues that a trade group would not know the number of employees eligible for the exemption. SBTC deferred that question to the Agency because FMCSA is the custodian of MCS–150 industry data. SBTC believes that it has identified the percentage of carriers that would be affected by the exemption but does not know a way to extrapolate the number of drivers from the estimated 3.5 million truck drivers in the U.S. without deferring to FMCSA for that information.

A copy of SBTC's application for reconsideration of the Agency's denial is available for review in the docket for this notice.

V. Equivalent Level of Safety

To ensure an equivalent level of safety, SBTC suggests a return to paper logs. According to SBTC, ''Paper logs were deemed sufficient to ensure adequate levels of safety for generations, more than 80 years. And the FMCSA has already issued numerous exemptions that require carriers to revert to tracking their hours of service using paper logs in lieu of ELDs . . .'' SBTC supports its argument with the belief that ELDs have caused reckless speeding and pose national security threats. SBTC urges FMCSA to look carefully at the unintended consequences of the ELD rule when deciding whether or not to grant the exemption. SBTC also suggests that FMCSA temporarily grant the exemption ''if for no other reason than to press the pause button while [FMCSA] studies these unintended consequences and their adverse effects on safety. We contend this would indeed achieve a greater level of overall safety than the current status quo.''

Issued on: October 23, 2019.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2019–23561 Filed 10–28–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2019–0102]

Agency Information Collection Activities; Renewal of a Currently-Approved Collection: Driver Qualification Files

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. FMCSA requests approval to revise and renew an ICR titled ''Driver Qualification Files,'' OMB Control Number 2126–0004. The ICR estimates the burden commercial motor vehicle (CMV) drivers and motor carriers incur to comply with the reporting and recordkeeping tasks required for motor carriers to maintain driver qualification (DQ) files. The Agency's regulations pertaining to maintaining DQ files are unchanged and impose no increased information collection (IC) burden on individual drivers and motor carriers. However, the Agency increases its estimate of the total IC burden of these regulations primarily because both the number of CMV drivers and the frequency of their hiring have increased since the Agency's 2016 estimate of this burden.

DATES: Please send your comments by November 29, 2019. OMB must receive your comments by this date in order to act on the ICR.

All comments should reference Federal Docket Management System Docket Number FMCSA–2019–0102. Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/Federal Motor Carrier Safety Administration, and sent via electronic mail to *oira_submission@omb.eop.gov,* faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division Department of Transportation, FMCSA, West Building 6th Floor, 1200 New Jersey Avenue SE, Washington, DC 20590. Telephone: 202–366–4325. Email: *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: Driver Qualification Files.

OMB Control Number: 2126–0004.

Type of Request: Renewal and revision of a currently-approved information collection.

Respondents: CMV motor carriers and drivers.

Estimated Number of Respondents: 6.89 million (6.35 million drivers + 0.54 million motor carriers).

Expiration Date: January 31, 2020.

Frequency of Response: The information on some DQ documents is only provided one time, such as that furnished at the time the individual applies for employment as a driver. Other information must be obtained by the motor carrier within 30 days of the date the driver begins to drive a CMV for the employer. Other information, such as the driver's motor vehicle record, is only updated once a year.

Estimated Total Annual Burden: 12.26 million hours.

Background

The Motor Carrier Safety Act of 1984 (Pub. L. 98–554, Title II, 98 Stat. 2834 (October 30, 1984)) requires the Secretary of Transportation to issue regulations pertaining to commercial motor vehicle (CMV) safety. Part 391 of volume 49 of the Code of Federal Regulations (CFR) contains the minimum qualifications of drivers of CMVs in interstate commerce.

Motor carriers may not require or permit an unqualified driver to operate a CMV. The foremost proof of driver qualification is the information that part 391 requires be collected and maintained in the driver qualification file (DQ file) (49 CFR 391.51). Motor carriers must obtain this information from sources specified in the regulations, such as the driver, previous employers of the driver, and officials of the State of driver licensure. Motor carriers are not required to forward DQ information to FMCSA, but must maintain the information in a DQ file and make it available to State and Federal safety investigators on demand.

Through this ICR, FMCSA is asking OMB's approval to renew and revise its estimate of the paperwork burden imposed by its DQ file regulations. The regulations have not been amended; the IC burden imposed on individual drivers and motor carriers by the regulations is unchanged. The current IC burden estimate approved by OMB is 10.21 million hours. The Agency has increased its estimate of the total IC burden from 10.21 million hours to 12.26 million hours. The increase in burden hours is primarily the result of a larger driver population and a higher driver turnover rate, both of which affect the volume of documents produced and filed in DQ files. This revised ICR removes the medical examiner's certificate recordkeeping requirement from the estimate of burden hours and cost to eliminate double counting. Although the currently approved ICR did not monetize driver and motor carrier burden hours, the revised ICR monetizes such burden.

On June 10, 2019, FMCSA published a **Federal Register** notice allowing for a 60-day comment period on this ICR. There were no comments submitted to the docket in response to that notice.

Public Comments Invited

FMCSA requests that you comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for FMCSA to perform its functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The Agency will summarize or include your comments in the request for OMB's clearance of this information collection.

Issued under the authority delegated in 49 CFR 1.87 on: October 23, 2019

Kelly Regal,

Associate Administrator for Office of Research and Information Technology.

[FR Doc. 2019–23562 Filed 10–28–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Funding Opportunity for Magnetic Levitation Deployment Projects

AGENCY: Federal Railroad Administration (FRA), Department of Transportation.

ACTION: Notice of funding opportunity (NOFO or notice).

SUMMARY: This notice details the application requirements and procedures to obtain grant[1] funding for eligible projects under the Magnetic Levitation Technology Deployment Program (Maglev Grants Program). Maglev Grants Program funding under this notice is provided by two sources, totaling $24,027,500. This funding includes $10,000,000 (2019 Funds) as appropriated by the Consolidated Appropriations Act, 2019, (2019 Appropriation) and an additional $14,027,500 (2008 Funds) as authorized by sections 1101(a)(18) and 1307 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users SAFETEA–LU, (SAFETEA–LU), as amended by the SAFETEA–LU Technical Corrections Act of 2008, (Technical Corrections Act). There are differing requirements for each of these funding sources as described in this notice. The opportunities described in this notice are made available under Catalog of Federal Domestic Assistance (CFDA) number 20.318, ''Maglev Project Selection Program—SAFETEA–LU.''

DATES: Applications for funding under this solicitation are due no later than 5:00 p.m. EDT November 29, 2019. Applications for funding, or supplemental material in support of an application, received after 5:00 p.m. EDT on November 29, 2019 will not be considered for funding. Incomplete applications will not be considered for funding. See section D of this notice for additional information on the application process.

ADDRESSES: Applications must be submitted via *www.Grants.gov.* Only applicants who comply with all submission requirements described in this notice and submit applications through *www.Grants.gov* will be eligible for award. For any supporting application materials that an applicant is unable to submit via *www.Grants.gov,* an applicant may submit an original and two (2) copies to Amy Houser, Office of Program Delivery, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W36–412, Washington, DC 20590. However, due to delays caused by enhanced screening of mail delivered via the U.S. Postal Service, applicants are advised to use other means of conveyance (such as courier service) to assure timely receipt of materials before the application deadline.

FOR FURTHER INFORMATION CONTACT: For further information regarding the Maglev Grants Program, please contact Ruthie Americus, Office of Policy and Planning, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W36–403, Washington, DC 20590; email: *ruthie.americus@dot.gov;* phone: 202–493–0431. Grant application submission and processing questions should be addressed to Amy Houser, Office of Program Delivery, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W36–412, Washington, DC 20590; email: *amy.houser@dot.gov;* phone: 202–493–0303.

SUPPLEMENTARY INFORMATION:

Notice to applicants: FRA recommends that applicants read this notice in its entirety prior to preparing application materials. Definitions of key terms used throughout the NOFO are provided in section A(2) below. These key terms are capitalized throughout the NOFO. There are several administrative prerequisites and eligibility requirements described herein that applicants must comply with. Additionally, applicants should note that the required Project Narrative component of the application package may not exceed 25 pages in length.

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A. Program Description

1. Overview

Under this NOFO, a total of $24,027,500 is available for eligible capital project costs and preconstruction planning activities for eligible Maglev projects as discussed further in section C(3). The $24,027,500 is composed of funding from two sources, $14,027,500 in 2008 Funds and $10,000,000 in 2019 Funds.

Section 102 of the Technical Corrections Act amended sections 1101(a)(18) and 1307 of SAFETEA–LU and provided $45,000,000 in contract authority for each of fiscal years 2008 and 2009 for Maglev projects.[2] Based upon the clear Congressional direction in the Technical Corrections Act, the $14,027,500 remaining for award and available under this NOFO is for the Pittsburgh, Baltimore-Washington, and Atlanta-Chattanooga projects only.

In the 2019 Appropriation, Congress appropriated an additional $10,000,000 for the deployment of magnetic levitation transportation projects, consistent with the language in section 1307(a) through (c) of SAFETEA–LU, as amended by section 102 of the Technical Corrections Act. The 2019 Funds are not limited to the above three projects and are available to any otherwise eligible Maglev project.

To reiterate, only the Pittsburgh, Baltimore-Washington, and Atlanta-Chattanooga projects are eligible for the full $24,027,500 available under this notice from the remaining 2008 Funds ($14,027,500) and the 2019 Funds ($10,000,000). Applicants with otherwise eligible Maglev projects may apply only for the $10,000,000 in 2019 Funds available under this notice.

2. Definitions of Key Terms

a. ''Full Project Cost'' means the total capital costs of a Maglev project

[1] The term ''grant'' is used throughout this document and is intended to reference funding awarded through a grant agreement, as well as funding awarded through a cooperative agreement.

[2] SAFETEA–LU allocated 50 percent of the available funding to a project between Las Vegas–Primm, NV and the other 50 percent to a project east of the Mississippi River. In the Joint Explanatory Statement of the House Transportation and Infrastructure Committee and the Senate Environmental and Public Works; Banking, Housing and Urban Affairs; and Commerce, Science and Transportation Committees accompanying the Technical Corrections Act, Congress explained that in amending SAFETEA–LU to allow FRA discretion to award funds to ''projects'' located east of the Mississippi River, ''the intent is to limit the eligible projects to three existing projects east of the Mississippi River: Pittsburgh, Baltimore-Washington, and Atlanta-Chattanooga.'' Congress repurposed the funds originally allocated to the Las Vegas–Primm, NV project in the Consolidated Appropriations Act, 2014, Div. L, Tit. I, Sec. 192, Public Law 113–76, (2014), for new intercity passenger rail capital, railroad safety technology, and corridor planning projects. This funding was competed in 2014 and awarded in 2015.

including eligible project costs and the cost of stations, vehicles and equipment.

b. ''Magnetic Levitation'' or ''Maglev'' means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

c. ''National Environmental Policy Act (NEPA)'' is a Federal law that requires Federal agencies to analyze the environmental impacts of a proposed action, in consultation with appropriate Federal, State, and local authorities, and with the public. The NEPA class of action depends on the nature of the proposed action, its complexity, and the potential impacts. For purposes of this NOFO, NEPA also includes all related Federal laws and regulations including: The Clean Air Act, section 4(f) of the Department of Transportation Act, section 7 of the Endangered Species Act, and section 106 of the National Historic Preservation Act. Additional information regarding FRA's environmental processes and requirements are located at *https://www.fra.dot.gov/environment.*

d. ''State'' has the meaning such term has under 23 U.S.C. 101(a).

B. Federal Award Information

1. Available Award Amount

FRA will make up to $24,027,500 in funding available under this notice, composed of $14,027,500 in 2008 Funds and $10,000,000 in 2019 Funds. Should additional Maglev funds become available after the release of this NOFO, FRA may elect to award such additional funds to applications received under this NOFO.

2. Award Size

There are no predetermined minimum or maximum dollar thresholds for awards, and FRA may choose to select one or more eligible projects for funding. FRA may not award grants to all eligible applications, or even those applications that meet or exceed the stated evaluation criteria (see section E, Application Review Information).

FRA may award less than the amount of funding requested by the applicant based on considerations such as individual project scope and total available funding. In such cases, applicants must be able to demonstrate the proposed projects are still viable and can be completed with the amount awarded.

FRA strongly encourages applicants to identify and include other State, local, public, or private funding or financing to support the proposed project to maximize competitiveness.

3. Award Type

FRA will make awards for projects selected under this notice through grant agreements and/or cooperative agreements. Grant agreements are used when FRA does not expect to have substantial Federal involvement in carrying out the funded activity. Cooperative agreements allow for substantial Federal involvement in carrying out the agreed upon investment, including technical assistance, review of interim work products, and increased program oversight. The funding provided under this NOFO will be made available to grantees on a reimbursable basis. Applicants must certify that their expenditures are allowable, allocable, reasonable, and necessary to the approved project before seeking reimbursement from FRA. Additionally, the grantee is expected to expend matching funds at the required percentage concurrent with Federal funds throughout the life of the project. See an example of standard terms and conditions for FRA grant awards at: *https://www.fra.dot.gov/eLib/details/L05285.*

C. Eligibility Information

This section of the notice explains applicant eligibility, cost sharing and matching requirements, and project eligibility. Applications that do not meet the requirements in this section will be ineligible for funding. Instructions for submitting eligibility information to FRA are detailed in section D of this NOFO.

1. Eligible Applicants

Applicants must be a State, States, or an authority designated by one or more States.[3] If the proposed Maglev service would operate in more than one State, a single State or designated State authority should apply on behalf of all participating States. FRA encourages States to submit applications through their respective Departments of Transportation. Eligible applicants may reference entities that are not eligible applicants in an application as a project partner.

2. Cost Sharing or Matching

The Federal share of Full Project Costs will not exceed 80 percent. The funds available under this NOFO are available only for eligible project costs of eligible Maglev projects. As a result, under this NOFO the Federal share of the estimated total eligible project costs will not exceed 80 percent. The estimated total cost of a project must be based on the best available information, including engineering studies, studies of economic feasibility, environmental analyses, and information on the expected use of equipment and/or facilities. Additionally, in preparing estimates of total project costs, applicants should refer to FRA's cost estimate guidance documentation, ''Capital Cost Estimating: Guidance for Project Sponsors,'' which is available at: *https://www.fra.dot.gov/Page/P0926.*

The minimum 20 percent non-Federal match may be composed of public sector (*e.g.,* State or local) and/or private sector funding. FRA will not consider any Federal financial assistance, nor any non-Federal funds already expended (or otherwise encumbered) that do not comply with 2 CFR 200.458 toward the matching requirement. FRA is limiting the first 20 percent of the non-Federal match to cash contributions only. Eligible in-kind contributions may be accepted for any non-Federal matching beyond the first 20 percent. In-kind contributions, including the donation of services, materials, and equipment, may be credited as a project cost, in a uniform manner consistent with *2 CFR 200.306.* Moreover, FRA encourages applicants to broaden their funding table in applications. FRA will give preference to applications proposing non-Federal share exceeding the minimum 20 percent and consisting of funding from multiple sources to demonstrate broad participation and cost sharing from affected stakeholders.

Before applying, applicants should carefully review the principles for cost sharing or matching in *2 CFR 200.306.* See section D(2)(a)(iii) for required application information on non-Federal match and section E for further discussion of FRA's consideration of matching funds in the review and selection process. FRA will approve pre-award costs consistent with *2 CFR 200.458.* See section D(6).

3. Project Eligibility

Funding under this NOFO is available for eligible project costs for eligible Maglev projects. Eligible project costs are: (1) The capital cost of the fixed guideway infrastructure of a Maglev project including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities and (2) preconstruction planning activities. Eligible project costs exclude new stations and rolling stock,

[3] See section D(2)(a)(iv) for supporting documentation required to demonstrate eligibility under this eligibility category.

as well as costs incurred solely for land acquisition pursuant to securing operation right-of-way.

Eligible Maglev projects must: (1) Involve a segment or segments of a high-speed ground transportation corridor; (2) result in an operating transportation facility that provides a revenue producing service; (3) be approved by the Secretary based on an application submitted to the Secretary of Transportation by a State or authority designated by one or more States, and (4) for 2008 Funds, be an existing Maglev project in Pittsburgh, Baltimore-Washington, or Atlanta-Chattanooga. With respect to the second criterion, Congress titled section 1307 of SAFETEA–LU ''Deployment of Magnetic Levitation Transportation Projects'' and provided funding through section 1101(a)(18) of SAFETEA–LU, as amended by the Technical Corrections Act, for the ''deployment of magnetic levitation projects.'' Congress also provided funding through the 2019 Appropriation for the ''deployment of magnetic levitation projects.'' FRA interprets this language as evidencing a Congressional intent that the Federal funds be used to directly advance and result in the construction of a Maglev project.

Funding under this NOFO may not be used for costs that are included in, or used to meet cost sharing or matching requirements of, any other Federally-financed award or program. If the applicant is seeking additional funding for a project that has already received Federal financial assistance, costs associated with the scope of work for the existing Federal award are not eligible for funding under this NOFO. Only new scope (*e.g.,* new deliverables) is eligible for funding under this NOFO.

D. Application and Submission Information

Required documents for the application are outlined in the following paragraphs. Applicants must complete and submit all components of the application. See section D(2) for the application checklist. FRA welcomes the submission of other relevant supporting documentation that may have been developed by the applicant (planning, environmental documentation, engineering and design documentation, letters of support, etc.) that will not count against the Project Narrative 25-page limit.

1. Address To Request Application Package

Applicants must submit all application materials in their entirety through *http://www.Grants.gov* no later than 5:00 p.m. EDT, on November 29, 2019. FRA reserves the right to modify this deadline. General information for submitting applications through *Grants.gov* can be found at: *https://www.fra.dot.gov/Page/P0270.*

For any supporting application materials that an applicant cannot submit via *Grants.gov*, an applicant may submit an original and two (2) copies to Amy Houser, Office of Program Delivery, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W36–412, Washington, DC 20590. However, due to delays caused by enhanced screening of mail delivered via the U.S. Postal Service, FRA advises applicants to use other means of conveyance (such as courier service) to assure timely receipt of materials before the application deadline. Additionally, if documents can be obtained online, providing instructions to FRA on how to access files on a referenced website may also be sufficient.

2. Content and Form of Application Submission

FRA strongly advises applicants to read this section carefully. Applicants must submit all required information and components of the application package to be considered for funding.

Required documents for an application package are outlined in the checklist below.

- Project Narrative (see D.2.a)
- Statement of Work (see D.2.b.i)
- SF424—Application for Federal Assistance
- Either: SF 424A—Budget Information for Non-Construction projects or SF 424C—Budget Information for Construction
- Either: SF 424B—Assurances for Non-Construction projects or SF 424D—Assurances for Construction
- FRA's Additional Assurances and Certifications
- SF LLL—Disclosure of Lobbying Activities

a. Project Narrative

This section describes the minimum content required in the Project Narrative of the grant application. The Project Narrative must follow the basic outline below to address the program requirements and assist evaluators in locating relevant information.

I. Cover Page	See D.2.a.i
II. Project Summary	See D.2.a.ii
III. Project Funding Summary	See D.2.a.iii
IV. Applicant Eligibility Criteria	See D.2.a.iv
V. Project Eligibility Criteria	See D.2.a.v
VI. Detailed Project Description	See D.2.a.vi
VII. Project Location	See D.2.a.vii
VIII. Evaluation and Selection Criteria.	See D.2.a.viii
IX. Project Implementation and Management.	See D.2.a.ix
X. Planning Readiness	See D.2.a.x
XI. Environmental Readiness	See D.2.a.xi

The above content must be provided in a narrative statement submitted by the applicant. The Project Narrative may not exceed 25 pages in length (excluding cover pages, table of contents, and supporting documentation). FRA will not review or consider Project Narratives beyond the 25-page limitation. If possible, applicants should submit supporting documents via website links rather than hard copies. If supporting documents are submitted, applicants must clearly identify the page number of the relevant portion of the supporting documentation in the Project Narrative. The Project Narrative must adhere to the following outline.

i. *Cover Page:* Include a cover page that lists the following elements in either a table or formatted list:

Project Title
Applicant
The amount of Federal funding requested
The amount of non-Federal match
The total project cost
City(ies), State(s) where the project is located
Congressional district(s) where the project is located

ii. *Project Summary:* Provide a brief 4–6 sentence summary of the proposed project and what the project will entail. Include challenges the proposed project aims to address, and summarize the intended outcomes and anticipated benefits that will result from the proposed project.

iii. *Project Funding Summary:* Indicate in table format the amount of Federal funding requested, the proposed non-Federal match, and total project cost. Identify the source(s) of matching funds, including whether the match is provided from public- vs. private-sector sources, and clearly and distinctly reflect these funds as part of the total project costs in the application budget. Additionally, identify any other sources of Federal funds committed to the project and any pending Federal requests. Also, note if the requested Federal funding must be obligated or spent by a certain date due to dependencies or relationships with other Federal or non-Federal funding sources, related projects, law, or other factors. Include funding commitment letters outlining funding agreements, as attachments or in an appendix. If applicable, provide the type and estimated value of any proposed in-kind contributions, and demonstrate how the in-kind contributions meet the requirements in *2 CFR 200.306.*

EXAMPLE PROJECT FUNDING TABLE

Task No.	Task name/project component	Cost	Percentage of total cost
1			
2			
Total Project Cost			
Federal Funds Received from Previous Grants			
Maglev Federal Funding Request			
Non-Federal Funding/Match		Cash:	
		In-Kind:	
Portion of Non-Federal Funding from the Private Sector			
Portion of Non-Federal Funding from the Public Sector			
Pending Federal Funding Requests			

iv. *Applicant Eligibility Criteria:* Explain how the applicant meets the applicant eligibility criteria outlined in section C(1) of this notice. For authorities designated by one or more States, the explanation must include citations to the applicable enabling legislation.

v. *Project Eligibility Criteria:* Explain how the project meets the project eligibility criteria in section C(3) of this notice.

vi. *Detailed Project Description:* Include a detailed project description that expands upon the summary required above. This detailed description should provide, at a minimum: Additional background on the transportation challenges the project aims to address, the expected users, beneficiaries, and outcomes of the project, and any other information the applicant deems necessary to justify the proposed project. Be specific regarding the relevance or relationship of the proposed project to other investments in the region along the corridor, as well as the operating changes that are anticipated to result from the introduction and integration of Maglev services within existing transportation corridors and assess the major risks (including safety risks) or obstacles to Maglev's successful deployment and operation. Provide a detailed summary of all work completed to date, including any preliminary engineering work, the project's previous accomplishments and funding history including Federal financial assistance, and a chronology of key documents produced and funding events (*e.g.,* grants and financing). An applicant should specify whether it is seeking funding for a project that has already received Federal financial assistance, and if applicable, explain how the new scope proposed to be funded under this NOFO relates to the previous scope.

vii. *Project Location:* Include geospatial data for the project, as well as a map of the project's location. Include the Congressional districts in which the project will take place.

viii. *Evaluation and Selection Criteria:* Include a thorough discussion of how the proposed project meets all the evaluation and selection criteria, as outlined in section E of this notice. If an application does not sufficiently address the evaluation criteria and the selection criteria, it is unlikely to be a competitive application. For the life-cycle cost selection criteria, applicants should demonstrate a credible plan to maintain their asset without having to rely on Federal funding including a description of the applicants' approach to ensuring operations and maintenance will not be underfunded in future years.

ix. *Project Implementation and Management:* Describe proposed project implementation and project management arrangements for the full Maglev corridor project, including the activities proposed in this application. Include descriptions of the expected arrangements for project contracting, contract oversight, change-order management, risk management, and conformance to Federal requirements for project progress reporting (see *https://www.fra.dot.gov/Page/P0274*). Identify key personnel involved in the implementation and management of the project, and describe their qualifications and functional responsibilities associated with the project. Describe experience in managing and overseeing similar projects.

x. *Planning Readiness:* Provide information about the planning process that analyzed the investment needs and service objectives of the project. If applicable, cite sources of this information from a service development plan, State or regional rail plan, or similar planning document where the project has been identified for solving a specific existing transportation problem, and makes the case for investing in the proposed solution. Describe the plan to finance any planning, land acquisition, buildout, testing, and implementation of the project, and specify long term financial plans to own, operate and maintain Maglev services.

xi. *Environmental Readiness:* Describe anticipated environmental or historic preservation impacts associated with the proposed project, any environmental or historic preservation analyses that have been prepared, and any ongoing progress toward completing environmental documentation or clearance required for the proposed project under NEPA as defined in this NOFO. Provide, as available, a schedule to complete these actions. Applicants are encouraged to contact FRA and obtain preliminary direction regarding the appropriate NEPA class of action and required environmental documentation. Generally, projects will be ineligible to receive funding if they have begun construction activities prior to the applicant/grantee receiving written approval from FRA that all environmental and historical analyses have been completed.

b. Additional Application Elements

Applicants must submit:

i. A Statement of Work (SOW) addressing the scope, schedule, and budget for the proposed project if it were selected for award. The SOW must contain sufficient detail so FRA, and the applicant, can understand the expected outcomes of the proposed work to be performed and can monitor progress toward completing project tasks and deliverables during a prospective grant's period of performance. Applicants must use FRA's standard SOW, schedule, and budget templates to be considered for award. The templates are located at *https://www.fra.dot.gov/Page/P0325.* When preparing the budget, the total cost of a project must be based on the best available information as indicated in cited references that include engineering studies, studies of economic feasibility, environmental analyses, and information on the expected use of equipment or facilities
ii. SF424—Application for Federal Assistance
iii. Either: SF 424A—Budget Information for Non-Construction projects or SF 424C—Budget Information for Construction
iv. Either: SF 424B—Assurances for Non-Construction projects or SF 424D—Assurances for Construction
v. FRA's Additional Assurances and Certifications; and
vi. SF LLL—Disclosure of Lobbying Activities.

Forms needed for the electronic application process are at *www.Grants.gov*.

c. Post-Selection Requirements

See section F(2) of this notice for post-selection requirements.

3. Unique Entity Identifier, System for Award Management (SAM), and Submission Instructions

To apply for funding through *Grants.gov*, applicants must be properly registered in SAM before submitting an application, provide a valid unique entity identifier, and continue to maintain an active SAM registration all as described in detail below. Complete instructions on how to register and submit an application can be found at *www.Grants.gov*. Registering with *Grants.gov* is a one-time process; however, it can take up to several weeks for first-time registrants to receive confirmation and a user password. FRA recommends that applicants start the registration process as early as possible to prevent delays that may preclude submitting an application package by the application deadline. Applications will not be accepted after the due date. Delayed registration is not an acceptable justification for an application extension.

FRA may not make a grant award to an applicant until the applicant has complied with all applicable Data Universal Numbering System (DUNS) and SAM requirements, and if an applicant has not fully complied with the requirements by the time the Federal awarding agency is ready to make a Federal award, the Federal awarding agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant. (Please note that if a Dun & Bradstreet DUNS number must be obtained or renewed, this may take a significant amount of time to complete.) Late applications that are the result of a failure to register or comply with *Grants.gov* applicant requirements in a timely manner will not be considered. If an applicant has not fully complied with the requirements by the submission deadline, the application will not be considered. To submit an application through *Grants.gov*, applicants must:

a. Obtain a DUNS Number

A DUNS number is required for *Grants.gov* registration. The Office of Management and Budget requires that all businesses and nonprofit applicants for Federal funds include a DUNS number in their applications for a new award or renewal of an existing award. A DUNS number is a unique nine-digit sequence recognized as the universal standard for the government in identifying and keeping track of entities receiving Federal funds. The identifier is used for tracking purposes and to validate address and point of contact information for Federal assistance applicants, recipients, and sub-recipients. The DUNS number will be used throughout the grant life cycle. Obtaining a DUNS number is a free, one-time activity. Applicants may obtain a DUNS number by calling 1–866–705–5711 or by applying online at *http://www.dnb.com/us.*

b. Register With the SAM at *www.SAM.gov*

All applicants for Federal financial assistance must maintain current registrations in the SAM database. An applicant must be registered in SAM to successfully register in *Grants.gov*. The SAM database is the repository for standard information about Federal financial assistance applicants, recipients, and subrecipients. Organizations that have previously submitted applications via *Grants.gov* are already registered with SAM, as it is a requirement for *Grants.gov* registration. Please note, however, that applicants must update or renew their SAM registration at least once per year to maintain an active status. Therefore, it is critical to check registration status well in advance of the application deadline. If an applicant is selected for an award, the applicant must maintain an active SAM registration with current information throughout the period of the award. Information about SAM registration procedures is available at *www.sam.gov.*

c. Create a *Grants.gov* Username and Password

Applicants must complete an Authorized Organization Representative (AOR) profile on *www.Grants.gov* and create a username and password. Applicants must use the organization's DUNS number to complete this step. Additional information about the registration process is available at: *https://www.grants.gov/web/grants/applicants/organization-registration.html.*

d. Acquire Authorization for Your AOR From the E-Business Point of Contact (E-Biz POC)

The E-Biz POC at the applicant's organization must respond to the registration email from *Grants.gov* and login at *www.Grants.gov* to authorize the applicant as the AOR. Please note there can be more than one AOR for an organization.

e. Submit an Application Addressing All Requirements Outlined in This NOFO

If an applicant experiences difficulties at any point during this process, please call the *Grants.gov* Customer Center Hotline at 1–800–518–4726, 24 hours a day, 7 days a week (closed on Federal holidays). For information and instructions on each of these processes, please see instructions at: *http://www.grants.gov/web/grants/applicants/apply-for-grants.html*

Note: Please use generally accepted formats such as .pdf, .doc, .docx, .xls, .xlsx and .ppt, when uploading attachments. While applicants may embed picture files, such as .jpg, .gif, and .bmp, in document files, applicants should not submit attachments in these formats. Additionally, the following formats will not be accepted: .com, .bat, .exe, .vbs, .cfg, .dat, .db, .dbf, .dll, .ini, .log, .ora, .sys, and .zip.

4. Submission Dates and Times

Applicants must submit complete applications in their entirety to *www.Grants.gov* no later than 5:00 p.m. EDT, November 29, 2019. FRA reviews *www.Grants.gov* information on dates/times of applications submitted to determine timeliness of submissions. Late applications will be neither reviewed nor considered. Delayed registration is not an acceptable reason for late submission. Applicants are strongly encouraged to apply early to ensure that all materials are received before this deadline.

To ensure a fair competition of limited discretionary funds, the following conditions are not valid reasons to permit late submissions: (1) Failure to complete the registration process before the deadline; (2) failure to follow *Grants.gov* instructions on how to register and apply as posted on its website; (3) failure to follow all instructions in this NOFO; and (4) technical issues experienced with the applicant's computer or information technology environment.

5. Intergovernmental Review

Executive Order 12372 requires applicants from State and local units of government or other organizations providing services within a State to submit a copy of the application to the State Single Point of Contact (SPOC), if one exists, and if this program has been selected for review by the State. Applicants must contact their State SPOC to determine if the program has been selected for State review.

6. Funding Restrictions

Consistent with 2 CFR 200.458, FRA will only approve pre-award costs if such costs are incurred pursuant to the negotiation and in anticipation of the grant agreement and if such costs are necessary for efficient and timely performance of the scope of work. Under 2 CFR 200.458, grant recipients must seek written approval from the FRA for pre-award activities to be eligible for reimbursement under the grant. Activities initiated prior to the execution of a grant or without written approval may not be eligible for reimbursement or included as a grantee's matching contribution.

As stated in section C(3), funding under this NOFO is not available for costs incurred for new stations, rolling stock, or solely for land acquisition (even acquisition to secure operational right-of-way). Further, funding under this NOFO may not be used for costs that are included as a cost or used to meet cost sharing or matching requirements of any other Federally financed project or program.

7. Other Submission Requirements

If an applicant experiences difficulties at any point during this process, please call the *Grants.gov* Customer Center Hotline at 1–800–518–4726, 24 hours a day, 7 days a week (closed on Federal holidays). For information and instructions on each of these processes, please see instructions at: *http://www.grants.gov/web/grants/applicants/apply-for-grants.html.*

E. Application Review Information

1. Criteria

a. Eligibility and Completeness Review

FRA will first screen each application for eligibility (eligibility requirements are outlined in section C of this notice), completeness (application documentation and submission requirements are outlined in section D of this notice), and the 20 percent minimum match.

b. Evaluation Criteria

FRA subject-matter experts will evaluate all eligible and complete applications against the following evaluation criteria:

i. The extent to which the project would feasibly integrate Maglev systems with conventional rail systems, such as establishing efficient connections and transfers.

ii. The extent to which funds awarded under this section would result in investments that are beneficial not only to the Maglev project, but also to other current or near-term transportation projects.

iii. The degree to which the project demonstrates: (a) The potential for public-private partnerships and (b) that the project will stand alone as a complete, self-sustaining operation where fully allocated operating expenses of the Maglev service are projected to be offset by revenues attributable to the service.

iv. The extent of the demonstrated financial commitment to the construction of the proposed project from both non-Federal public and private sources.

v. The extent to which the project demonstrates coordination and consistency with any applicable ongoing or completed environmental and planning studies for passenger rail on or connecting to the geographic route segment being proposed for Maglev investment.

vi. The degree to which the project will successfully operate in the variety of Maglev operating conditions which are to be expected in the United States. For example, these conditions might include a variety of at-grade, elevated and depressed guideway structures, extreme temperatures, and intermodal connections at terminals.

vii. The feasibility of the project meeting a top speed of at least 240 miles per hour (MPH). FRA will also consider the ability to meet higher speeds as well as the duration that speeds of at least 240 MPH can be attained.

c. Selection Criteria

In addition to the eligibility and completeness review and the evaluation criteria outlined in this section, the FRA Administrator (or his designee) will determine the final selection of projects for program funding.

i. FRA will take into account the following key Departmental objectives:

a. Supporting economic vitality at the national and regional level;

b. Leveraging Federal funding to attract other, non-Federal sources of infrastructure investment;

c. Preparing for future operations and maintenance costs associated with the project's life-cycle, as demonstrated by a credible plan to maintain assets without having to rely on future Federal funding;

d. Using innovative approaches to improve safety and expedite project delivery; and,

e. Holding grant recipients accountable for their performance and achieving specific, measurable outcomes identified by grant applicants.

ii. In determining the allocation of program funds, FRA may also consider geographic diversity, diversity in the size of the systems receiving funding, the applicant's receipt of other competitive awards, projects located in or that support transportation service in a qualified opportunity zone designated pursuant to 26 U.S.C. 1400Z–1, and the percentage of non-Federal share provided and whether such non-Federal share is provided by multiple sources.

2. Review and Selection Process

FRA will conduct a three-part application review process, as follows:

a. Screen applications for completeness and eligibility;

b. Evaluate eligible applications (completed by technical panels applying the evaluation criteria); and

c. Select projects for funding (completed by the FRA Administrator or his designee applying the selection criteria).

3. Reporting Matters Related to Integrity and Performance

Before making a Federal award with a total amount of Federal share greater than the simplified acquisition threshold (see 2 CFR 200.88 Simplified Acquisition Threshold), FRA will review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)). See 41 U.S.C. 2313.

An applicant, at its option, may review information in the designated integrity and performance systems accessible through SAM and comment on any information about itself that a Federal awarding agency previously entered and is currently in the designated integrity and performance system accessible through SAM.

FRA will consider any comments by the applicant, in addition to the other information in the designated integrity and performance system, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in 2 CFR 200.205.

F. Federal Award Administration Information

1. Federal Award Notice

FRA will announce applications selected for funding in a press release and on the FRA website after the application review period. FRA will contact applicants with successful applications after announcement with information and instructions about the award process. This notification is not an authorization to begin proposed project activities. FRA requires satisfaction of applicable requirements by the applicant and a formal agreement signed by both the grantee and the FRA, including an approved scope, schedule, and budget, to obligate the grant.

2. Administrative and National Policy Requirements

In connection with any program or activity conducted with or benefiting from funds awarded under this notice, recipients of funds must comply with all applicable requirements of Federal law, including, without limitation, the Constitution of the United States; the conditions of performance, nondiscrimination requirements, and other assurances made applicable to the award of funds in accordance with regulations of the Department of Transportation; and applicable Federal financial assistance and contracting principles promulgated by the Office of Management and Budget. In complying with these requirements, recipients must ensure that no concession agreements are denied or other contracting decisions made based on speech or other activities protected by the First Amendment. If the Department determines that a recipient has failed to comply with applicable Federal requirements, the Department may terminate the award of funds and disallow previously incurred costs, requiring the recipient to reimburse any expended award funds.

Examples of administrative and national policy requirements include: 2 CFR part 200; procurement standards; compliance with Federal civil rights laws and regulations; disadvantaged business enterprises; debarment and suspension; drug-free workplace; FRA's and OMB's Assurances and Certifications; Americans with Disabilities Act; safety requirements; NEPA; environmental justice and the Buy American Act, 41 U.S.C. 8301–8305. Financial assistance made available under this NOFO, and projects assisted with such assistance, are subject to 49 U.S.C. 5333(a).

See an example of standard terms and conditions for FRA grant awards at *https://www.fra.dot.gov/eLib/details/L05285.*

3. Reporting

a. Progress Reporting on Grant Activity

Each applicant selected for a grant will be required to comply with all standard FRA reporting requirements, including quarterly progress reports, quarterly Federal financial reports, and interim and final performance reports, as well as all applicable auditing, monitoring and close out requirements. Reports may be submitted electronically.

b. Additional Reporting

Applicants selected for funding are required to comply with all reporting requirements in the standard terms and conditions for FRA grant awards including 2 CFR 180.335 and 2 CFR 180.350. See an example of standard terms and conditions for FRA grant awards at: *https://www.fra.dot.gov/eLib/details/L05285.*

If the Federal share of any Federal award under this NOFO may include more than $500,000 over the period of performance, applicants are informed of the post award reporting requirements reflected in 2 CFR part 200, Appendix XII—Award Term and Condition for Recipient Integrity and Performance Matters.

c. Performance Reporting

Each applicant selected for funding must collect information and report on the project's performance using measures mutually agreed upon by FRA and the grantee to assess progress in achieving strategic goals and objectives.

G. Federal Awarding Agency Contacts

For further information regarding this notice and the grants program, please contact Amy Houser, Office of Program Delivery, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W36–412, Washington, DC 20590; email: *amy.houser@dot.gov,* or Ruthie Americus, Office of Policy and Planning, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W36–403, Washington, DC 20590; email: *ruthie.americus@dot.gov.*

H. Other Information

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the application includes information the applicant considers to be a trade secret or confidential commercial or financial information, the applicant should do the following: (1) Note on the front cover that the submission ''Contains Confidential Business Information (CBI)''; (2) mark each affected page ''CBI''; and (3) highlight or otherwise denote the CBI portions.

FRA protects such information from disclosure to the extent allowed under applicable law. In the event FRA receives a Freedom of Information Act (FOIA) request for the information, FRA will follow the procedures described in its FOIA regulations at 49 CFR 7.17. Only information that is ultimately determined to be confidential under that procedure will be exempt from disclosure under FOIA.

Issued in Washington, DC.

Quintin C. Kendall,

Deputy Administrator, Federal Railroad Administration.

[FR Doc. 2019–23535 Filed 10–28–19; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2019–0004–N–18]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, this notice announces that FRA is forwarding the Information Collection Requests (ICRs) abstracted below to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the information collections and their expected burden. On August 21, 2019, FRA published a notice providing a 60-day period for public comment on the ICRs.

DATES: Interested persons are invited to submit comments on or before November 29, 2019.

ADDRESSES: Submit written comments on the ICRs to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: FRA Desk Officer. Comments may also be sent via email to OMB at the following address: *oira_submissions@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Hodan Wells, Information Collection Clearance Officer, Office of Railroad Safety, Regulatory Analysis Division, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone: (202) 493–0440) or Ms. Kim Toone, Information Collection Clearance Officer, Office of Information Technology, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone: (202) 493–6132).

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. On August 21, 2019, FRA published a 60-day notice in the **Federal Register** soliciting comment on the ICRs for which it is now seeking OMB approval. *See* 84 FR 43645. FRA received no comments in response to this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30-days' notice for public comment. Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect.

Comments are invited on the following ICRs regarding: (1) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the information will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology.

The summaries below describe the ICRs that FRA will submit for OMB clearance as the PRA requires:

Title: Filing of Dedicated Cars.

OMB Control Number: 2130–0502.

Abstract: Title 49 CFR part 215 contains freight car safety standards, including conditions for freight cars in dedicated service. ''Dedicated service'' means the exclusive assignment of railroad cars to the transportation of freight between specified points under the conditions listed in 49 CFR 215.5(d), including stenciling, or otherwise displaying, in clear legible letters on each side of the car body, the words ''Dedicated Service.'' The railroad must notify FRA in writing that the cars are to be operated in dedicated service.

Type of Request: Extension without change of a currently approved collection.

Affected Public: Businesses.

Form(s): N/A.

Respondent Universe: 746 railroads.

Frequency of Submission: On occasion/monthly.

Total Estimated Annual Responses: 4.

Total Estimated Annual Burden: 4 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: $304.

Title: Rear End Marking Devices.

OMB Control Number: 2130–0523.

Abstract: Title 49 CFR part 221 contains requirements for rear end marking devices. Railroads must give FRA a detailed description of the type of marking devices used for any locomotive operating singly or for cars or locomotives operating at the end of a train (trailing end) to ensure they meet minimum standards for visibility and display. Specifically, part 221 requires railroads to furnish a certification that each device has been tested in accordance with current ''Guidelines for Testing of Rear End Marking Devices.'' Additionally, part 221 requires railroads to furnish detailed test records, which include the names of testing organizations, description of tests, number of samples tested, and the test results, to demonstrate compliance with the performance standard.

Type of Request: Extension with change (revised estimates) of a currently approved collection.

Affected Public: Businesses (railroads).

Form(s): N/A.

Respondent Universe: 746 railroads + 24 manufacturers.

Frequency of Submission: On occasion.

Total Estimated Annual Responses: 2.

Total Estimated Annual Burden:[1] 2 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: $152.

Title: System Safety Program.

OMB Control Number: 2130–0599.

Abstract: FRA uses the collection of information to ensure that commuter and intercity passenger railroads establish and implement System Safety Programs (SSPs) to improve the safety of their operations and to ensure compliance with the rule. Each railroad will use its SSP/SSP Plan to proactively identify and mitigate or eliminate hazards and the resulting risk on its system at an early stage to reduce the number of railroad accidents, incidents, and associated injuries, fatalities, and property damage. A railroad has the flexibility to tailor an SSP to its specific operations. An SSP will be implemented when FRA approves a railroad's submitted SSP Plan. Under this information collection, FRA will audit a railroad's compliance with its SSP Plan. FRA will use the information to ensure and enforce compliance with this regulation.

[1] Total estimated annual burden includes recordkeeping.

Type of Request: Extension with change (revised estimates) of a currently approved collection.

Affected Public: Businesses (railroads).

Form(s): N/A.

Respondent Universe: 33 railroads.

Frequency of Submission: On occasion/monthly.

Total Estimated Annual Responses: 738.

Total Estimated Annual Burden: 2,084 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: $169,396.

Under 44 U.S.C. 3507(a) and 5 CFR 1320.5(b) and 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Brett A. Jortland,

Acting Chief Counsel.

[FR Doc. 2019–23544 Filed 10–28–19; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2000–7257, Notice No. 89]

Railroad Safety Advisory Committee; Notice of Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of public meeting.

SUMMARY: FRA announces the fifty-ninth meeting of the Railroad Safety Advisory Committee (RSAC), a Federal Advisory Committee that develops railroad safety regulations through a consensus process.

DATES: The RSAC meeting is scheduled for Tuesday, November 26, 2019. The meeting will commence at 9:30 a.m., and will adjourn by 4:30 p.m. Requests to submit written materials to be reviewed during the meeting must be received no later than November 16, 2019. Requests for accommodations because of a disability must be received by November 16, 2019.

ADDRESSES: The RSAC meeting will be held at the National Association of Home Builders, located at 1201 15th Street NW, Washington, DC 20005. A final agenda will be posted on the RSAC internet website at *https://rsac.fra.dot.gov/* at least one week in advance of the meeting. Please see the RSAC website for additional information on the committee at *http://rsac.fra.dot.gov/.*

FOR FURTHER INFORMATION CONTACT: Kenton Kilgore, RSAC Designated Federal Officer/RSAC Coordinator, FRA Office of Railroad Safety, (202) 493–6286; or Larry Woolverton, Executive Officer, FRA Office of Railroad Safety, (202) 493–6212.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), FRA is giving notice of a meeting of the RSAC. The RSAC is composed of 40 voting representatives from 29 member organizations, representing various rail industry perspectives. The diversity of the Committee ensures the requisite range of views and expertise necessary to discharge its responsibilities.

Public Participation: The meeting is open to the public on a first-come, first-served basis, and is accessible to individuals with disabilities. Any member of the public may present a written statement to the committee at any time. The U.S. Department of Transportation and the Federal Railroad Administration are committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, please contact either of the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section no later than November 16, 2019.

Agenda Summary: The RSAC meeting topics will include opening remarks from the FRA Administrator, as well as an update on the railroad industry's implementation of positive train control (PTC). FRA will present to the Committee reports from the Working Groups for: Tourist and Historic Railroads; Track Standards; Passenger Safety; Part 225 Accident Reporting; Train Dispatcher Certification; and Signal Employees Certification. This agenda is subject to change.

Issued in Washington, DC.

Ronald L. Batory,

Administrator.

[FR Doc. 2019–23538 Filed 10–28–19; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2019–0080]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on September 18, 2019, the American Short Line and Regional Railroad Association (ASLRRA), on behalf of its members, petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal hours of service laws contained at 49 U.S.C. 21103(a)(4)(A), which, in part, require a train employee to receive 48 hours off duty after initiating an on-duty period for six consecutive days. FRA assigned the petition Docket Number FRA–2019–0080.

Specifically, ASLRRA seeks a comprehensive waiver of relief from (1) the statutory rest requirements contained in 49 U.S.C. 21103(a)(4)(A); and (2) approval of a pilot project to demonstrate the safety of adopting fatigue mitigation plans on Class II and Class III railroads in lieu of strict compliance with the requirements of these statutory provisions.

ASLRRA's existing waiver of 49 U.S.C. 21103(a)(4)(A), granted under the terms and conditions contained in FRA's initial March 5, 2010 decision letter, and extended by FRA's decision letter dated February 27, 2012, permits participating railroads to allow train employees to work six consecutive days followed by 24 hours of rest before returning to work. *See* Docket Number FRA–2009–0078. One condition of the waiver excludes work occurring between the hours of midnight and six a.m. ASLRRA requests to expand the waiver to include work between the hours of midnight and six a.m. for those railroads identified in the petition. It also seeks approval of a pilot project to validate preliminary data results suggesting that employing fatigue mitigating techniques would eliminate any adverse consequences from extending ASLRRA's existing waiver to those hours. ASLRRA states that employee participation in the waiver will be voluntary and all employees covered by the waiver will be provided information about the waiver and pilot.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by December 13, 2019 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov*.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2019–23590 Filed 10–28–19; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation Advisory Board—Notice of Public Meetings

AGENCY: Saint Lawrence Seaway Development Corporation (SLSDC), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces the public meeting via conference call of the Saint Lawrence Seaway Development Corporation Advisory Board.

DATES: The public meeting will be held on (all times Eastern):

- Monday, December 2, 2019 from 2:00 p.m.–3:30 p.m. EST.

ADDRESSES: The meeting will be held via conference call at the SLSDC's Operations location, 180 Andrews Street, Massena, New York 13662.

FOR FURTHER INFORMATION CONTACT: Wayne Williams, Chief of Staff, Saint Lawrence Seaway Development Corporation, 1200 New Jersey Avenue SE, Washington, DC 20590; 202–366–0091.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation (SLSDC). The agenda for this meeting will be as follows:

December 2, 2019 From 2:00 p.m.–3:30 p.m. EST

1. Opening Remarks
2. Consideration of Minutes of Past Meeting
3. Quarterly Report
4. Old and New Business
5. Closing Discussion
6. Adjournment

Public Participation

Attendance at the meeting is open to the interested public. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact the person listed under the heading, **FOR FURTHER INFORMATION CONTACT**, not later than Friday, November 25, 2019. Any member of the public may present a written statement to the Advisory Board at any time.

Carrie Lavigne,

(Approving Official), Chief Counsel, Saint Lawrence Seaway Development Corporation.

[FR Doc. 2019–23537 Filed 10–28–19; 8:45 am]

BILLING CODE 4910–61–P

FEDERAL REGISTER

Vol. 84 Tuesday,

No. 209 October 29, 2019

Part II

Bureau of Consumer Financial Protection

Home Mortgage Disclosure (Regulation C); Final Rule

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1003

[Docket No. CFPB–2019–0021]

RIN 3170–AA76

Home Mortgage Disclosure (Regulation C)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule; official interpretation.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is amending Regulation C to adjust the threshold for reporting data about open-end lines of credit by extending to January 1, 2022, the current temporary threshold of 500 open-end lines of credit. The Bureau is also incorporating into Regulation C the interpretations and procedures from the interpretive and procedural rule that the Bureau issued on August 31, 2018, and implementing further the Economic Growth, Regulatory Relief, and Consumer Protection Act.

DATES: This final rule is effective on January 1, 2020, except for the amendments to § 1003.2 in amendatory instruction 6, the amendments to § 1003.3 in amendatory instruction 7, and the amendments to supplement I to part 1003 in amendatory instruction 8, which are effective on January 1, 2022.

FOR FURTHER INFORMATION CONTACT: Jaydee DiGiovanni, Counsel; or Amanda Quester or Alexandra Reimelt, Senior Counsels, Office of Regulations, at 202–435–7700 or *https://reginquiries.consumerfinance.gov/*. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

I. Summary of the Final Rule

Regulation C, 12 CFR part 1003, implements the Home Mortgage Disclosure Act (HMDA), 12 U.S.C. 2801 through 2810, and includes institutional and transactional coverage thresholds that determine whether financial institutions are required to collect, record, and report any HMDA data on closed-end mortgage loans or open-end lines of credit (collectively, coverage thresholds).[1] In the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA),[2] Congress added partial exemptions from HMDA's requirements that exempt certain insured depository institutions and insured credit unions from reporting some but not all HMDA data for certain transactions. The final rule incorporates into Regulation C and implements further the EGRRCPA partial exemptions. It also extends for two years a temporary adjustment to Regulation C's institutional and transactional coverage threshold for open-end lines of credit.[3]

A. Extension of Temporary Adjustment to Open-End Coverage Threshold

In an October 2015 final rule (2015 HMDA Rule), the Bureau established institutional and transactional coverage thresholds in Regulation C, and these thresholds affect whether financial institutions need to report any information under HMDA for transactions.[4] The 2015 HMDA Rule set the closed-end threshold at 25 loans in each of the two preceding calendar years, and the open-end threshold at 100 open-end lines of credit in each of the two preceding calendar years. In 2017, before those thresholds took effect, the Bureau temporarily increased the open-end threshold to 500 open-end lines of credit for two years (calendar years 2018 and 2019). The final rule extends to January 1, 2022, the current temporary threshold of 500 open-end lines of credit for open-end institutional and transactional coverage. The Bureau intends to address in a separate final rule the changes it proposed to the permanent coverage thresholds for open-end lines of credit and closed-end mortgage loans.[5] In the interim, extending the current temporary increase in the open-end coverage threshold for an additional two years will allow the Bureau to consider fully the appropriate level for the permanent open-end coverage threshold for data collected beginning January 1, 2022, after reviewing additional comments relating to that aspect of the proposal. Such an extension will ensure that any institutions that are covered under the new permanent open-end coverage threshold have until January 1, 2022 to comply.

B. Implementation of Partial Exemptions

The final rule also implements further the partial exemptions from HMDA's requirements that the EGRRCPA recently added to HMDA. In August 2018, the Bureau issued an interpretive and procedural rule to implement and clarify the EGRRCPA amendments to HMDA (2018 HMDA Rule).[6] The 2018 HMDA Rule clarifies that insured depository institutions and insured credit unions covered by a partial exemption have the option of reporting exempt data fields as long as they report all data fields within any exempt data point for which they report data; clarifies that only loans and lines of credit that are otherwise HMDA reportable count toward the thresholds for the partial exemptions; clarifies which of the data points in Regulation C are covered by the partial exemptions; designates a non-universal loan identifier for partially exempt transactions for institutions that choose not to report a universal loan identifier; and clarifies the exception to the partial exemptions for insured depository institutions with less than satisfactory examination histories under the Community Reinvestment Act of 1977 (CRA). The final rule incorporates into Regulation C these interpretations and procedures, with minor adjustments, by adding new § 1003.3(d) relating to the partial exemptions and making various amendments to the data compilation requirements in § 1003.4. The final rule further implements the EGRRCPA by addressing certain additional interpretive issues relating to the partial exemptions that the 2018 HMDA Rule did not specifically address, such as how to determine whether a partial exemption applies to a transaction after a merger or acquisition.

II. Background

A. HMDA and Regulation C

HMDA requires certain depository institutions and for-profit nondepository

[1] HMDA requires financial institutions to collect, record, and report data. To simplify review of this document, the Bureau generally refers herein to the obligation to report data instead of listing all of these obligations in each instance.

[2] Public Law 115–174, 132 Stat. 1296 (2018).

[3] When amending the Bureau's commentary, the Office of the Federal Register requires reprinting of certain subsections being amended in their entirety rather than providing more targeted amendatory instructions and commentary. The subsections of regulatory text and commentary included in this document show the complete language of those subsections. In addition, the Bureau is releasing an unofficial, informal redline to assist industry and other stakeholders in reviewing the changes that it is finalizing to the regulatory text and commentary of Regulation C. This redline can be found on the Bureau's regulatory implementation page for the HMDA Rule at *https://www.consumerfinance.gov/policy-compliance/guidance/hmda-implementation/*. If any conflicts exist between the redline and this final rule, this final rule is the controlling document.

[4] Home Mortgage Disclosure (Regulation C), 80 FR 66128 (Oct. 28, 2015).

[5] *See* Home Mortgage Disclosure (Regulation C); Reopening of Comment Period, 84 FR 37804 (Aug. 2, 2019).

[6] Partial Exemptions from the Requirements of the Home Mortgage Disclosure Act Under the Economic Growth, Regulatory Relief, and Consumer Protection Act (Regulation C), 83 FR 45325 (Sept. 7, 2018).

institutions to report data about originations and purchases of mortgage loans, as well as mortgage loan applications that do not result in originations (for example, applications that are denied or withdrawn). The purposes of HMDA are to provide the public with loan data that can be used: (i) To help determine whether financial institutions are serving the housing needs of their communities; (ii) to assist public officials in distributing public-sector investment so as to attract private investment to areas where it is needed; and (iii) to assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.[7] Prior to enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Regulation C required reporting of 22 data points and allowed for optional reporting of reasons an institution denied an application.[8]

B. Dodd-Frank Act

In 2010, Congress enacted the Dodd-Frank Act, which amended HMDA and transferred HMDA rulemaking authority and other functions from the Board of Governors of the Federal Reserve System (Board) to the Bureau.[9] Among other changes, the Dodd-Frank Act expanded the scope of information relating to mortgage applications and loans that institutions must compile, maintain, and report under HMDA. Specifically, the Dodd-Frank Act amended HMDA section 304(b)(4) by adding one new data point, the age of loan applicants and mortgagors. The Dodd-Frank Act also added new HMDA section 304(b)(5) and (6), which requires the following additional new data points: Information relating to the total points and fees payable at origination (total loan costs or total points and fees); the difference between the annual percentage rate (APR) associated with the loan and a benchmark rate or rates for all loans (rate spread); the term of any prepayment penalty; the value of real property to be pledged as collateral; the term of the loan and of any introductory interest rate on the loan; the presence of contract terms allowing non-amortizing payments; the channel through which the application was made; and the credit scores of applicants and mortgagors.[10] New HMDA section 304(b)(6) in addition authorizes the Bureau to require, ''as [it] may determine to be appropriate,'' a unique identifier that identifies the loan originator, a universal loan identifier (ULI), and the parcel number that corresponds to the real property pledged as collateral for the mortgage loan.[11] New HMDA section 304(b)(5)(D) and (6)(J) further provides the Bureau with the authority to mandate reporting of ''such other information as the Bureau may require.''[12]

C. 2015 HMDA Rule

In October 2015, the Bureau issued the 2015 HMDA Rule implementing the Dodd-Frank Act amendments to HMDA.[13] Most of the 2015 HMDA Rule took effect on January 1, 2018.[14] The 2015 HMDA Rule implemented the new data points specified in the Dodd-Frank Act,[15] added a number of additional data points pursuant to the Bureau's discretionary authority under HMDA section 304(b)(5) and (6),[16] and made revisions to certain pre-existing data points to clarify their requirements, provide greater specificity in reporting, and align certain data points more closely with industry data standards,[17] among other changes.

The 2015 HMDA Rule requires some financial institutions to report data on certain dwelling-secured, open-end lines of credit, including home-equity lines of credit. Prior to the 2015 HMDA Rule, Regulation C allowed, but did not require, reporting of home-equity lines of credit.

The 2015 HMDA Rule also established institutional coverage thresholds based on loan volume that limit the definition of ''financial institution'' to include only those institutions that either originated at least 25 closed-end mortgage loans in each of the two preceding calendar years or originated at least 100 open-end lines of credit in each of the two preceding calendar years.[18] The 2015 HMDA Rule separately established transactional coverage thresholds that are part of the test for determining which loans are excluded from coverage and were designed to work in tandem with the institutional coverage thresholds.[19]

D. 2017 HMDA Rule and December 2017 Statement

In April 2017, the Bureau issued a notice of proposed rulemaking to address certain technical errors in the 2015 HMDA Rule, ease the burden of reporting certain data requirements, and clarify key terms to facilitate compliance with Regulation C.[20] In July 2017, the Bureau issued a notice of proposed rulemaking (July 2017 HMDA Proposal) to increase temporarily the 2015 HMDA Rule's open-end coverage threshold of 100 for both institutional and transactional coverage, so that institutions originating fewer than 500 open-end lines of credit in either of the two preceding calendar years would not have to commence collecting or reporting data on their open-end lines of credit until January 1, 2020.[21] In August 2017, the Bureau issued the 2017 HMDA Rule, which, inter alia, temporarily increased the open-end threshold to 500 open-end lines of credit for calendar years 2018 and 2019.[22] In doing so, the Bureau indicated that the two-year period would allow time for the Bureau to decide, through an additional rulemaking, whether any permanent adjustments to the open-end threshold are needed.[23]

[7] 12 CFR 1003.1.

[8] As used in this final rule, the term ''data point'' refers to items of information that entities are required to compile and report, generally listed in separate paragraphs in Regulation C. Some data points are reported using multiple data fields.

[9] Public Law 111–203, 124 Stat. 1376, 1980, 2035–38, 2097–101 (2010).

[10] Dodd-Frank Act section 1094(3), *amending* HMDA section 304(b), 12 U.S.C. 2803(b).

[11] *Id.*

[12] *Id.*

[13] 80 FR 66128 (Oct. 28, 2015).

[14] *Id.* at 66128, 66256–58.

[15] The following 12 data points in 12 CFR 1003.4(a) implement specific provisions in HMDA section 304(b)(5)(A) through (C) or (b)(6)(A) through (I): ULI (1003.4(a)(1)(i)); property address (1003.4(a)(9)(i)); rate spread (1003.4(a)(12)); credit score (1003.4(a)(15)); total loan costs or total points and fees (1003.4(a)(17)); prepayment penalty term (1003.4(a)(22)); loan term (1003.4(a)(25)); introductory rate period (1003.4(a)(26)); non-amortizing features (1003.4(a)(27)); property value (1003.4(a)(28)); application channel (1003.4(a)(33)); and mortgage loan originator identifier (1003.4(a)(34)). *Id.*

[16] For example, the 2015 HMDA Rule added a requirement to report debt-to-income ratio in § 1003.4(a)(23). *Id.* at 66218–20.

[17] For example, the 2015 HMDA Rule replaced property type with number of total units and construction method in § 1003.4(a)(5) and (31). *Id.* at 66180–81, 66227. It also requires disaggregation of ethnicity and race information in § 1003.4(a)(10)(i). *Id.* at 66187–94.

[18] *Id.* at 66148–50, 66309 (codified at 12 CFR 1003.2(g)(1)(v)). The 2015 HMDA Rule excludes certain transactions from the definition of covered loans, and those excluded transactions do not count towards the threshold. *Id.*

[19] *Id.* at 66173, 66310, 66322 (codified at 12 CFR 1003.3(c)(11) and (12)).

[20] Technical Corrections and Clarifying Amendments to the Home Mortgage Disclosure (Regulation C) October 2015 Final Rule, 82 FR 19142 (Apr. 25, 2017).

[21] Home Mortgage Disclosure (Regulation C) Temporary Increase in Institutional and Transactional Coverage Thresholds for Open-End Lines of Credit, 82 FR 33455 (July 20, 2017).

[22] Home Mortgage Disclosure (Regulation C), 82 FR 43088 (Sept. 13, 2017).

[23] *Id.* at 43095. The 2017 HMDA Rule also, among other things, replaced ''each'' with ''either'' in § 1003.3(c)(11) and (12) to correct a drafting error and to ensure that the exclusion provided in that section mirrors the loan-volume threshold for

Continued

Recognizing the significant systems and operations challenges needed to adjust to the revised regulation, the Bureau issued a statement in December 2017 (December 2017 Statement) indicating that, for HMDA data collected in 2018 and reported in 2019, the Bureau did not intend to require data resubmission unless data errors are material.[24] The December 2017 Statement also explained that the Bureau did not intend to assess penalties with respect to errors in data collected in 2018 and reported in 2019.[25] As explained in the statement, any supervisory examinations of 2018 HMDA data would be diagnostic to help institutions identify compliance weaknesses and would credit good-faith compliance efforts. In its December 2017 Statement, the Bureau indicated that it intended to engage in a rulemaking to reconsider various aspects of the 2015 HMDA Rule, such as the institutional and transactional coverage tests and the rule's discretionary data points. The Board, the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), and the Office of the Comptroller of the Currency (OCC) released similar statements relating to their supervisory examinations.[26]

financial institutions in § 1003.2(g). *Id.* at 43100, 43102.

[24] Bureau of Consumer Fin. Prot., ''Statement with Respect to HMDA Implementation'' (Dec. 21, 2017), *https://files.consumerfinance.gov/f/documents/cfpb_statement-with-respect-to-hmda-implementation_122017.pdf.*

[25] The statement also indicated that collection and submission of the 2018 HMDA data will provide financial institutions an opportunity to identify any gaps in their implementation of amended Regulation C and make improvements in their HMDA compliance management systems for future years. *Id.*

[26] As part of its spring 2018 Call for Evidence series of Requests for Information, the Bureau issued a Request for Information Regarding the Bureau's Adopted Regulations and New Rulemaking Authorities, 83 FR 12286 (Mar. 21, 2018) (RFI on Adopted Regulations) and a Request for Information Regarding the Bureau's Inherited Regulations and Inherited Rulemaking Authorities, 83 FR 12881 (Mar. 26, 2018). The RFI on Adopted Regulations did not request feedback on the 2015 HMDA Rule nor that rule's subsequent amendments because the Bureau had previously announced in the December 2017 Statement that it intended to engage in a rulemaking process to reconsider the 2015 HMDA Rule. However, the Bureau received a few comments relating to HMDA in response to the RFI on Adopted Regulations. The Bureau considered these comments as well as other input it has received from stakeholders through its efforts to monitor and support industry implementation of the 2015 HMDA Rule and the 2017 HMDA Rule in developing the May 2019 Proposal and the Advance Notice of Proposed Rulemaking that the Bureau released simultaneously with the May 2019 Proposal.

E. EGRRCPA and 2018 HMDA Rule

On May 24, 2018, the President signed into law the EGRRCPA.[27] Section 104(a) of the EGRRCPA amends HMDA section 304(i) by adding partial exemptions from HMDA's requirements for certain insured depository institutions and insured credit unions.[28] New HMDA section 304(i)(1) provides that the requirements of HMDA section 304(b)(5) and (6) shall not apply with respect to closed-end mortgage loans of an insured depository institution or insured credit union if it originated fewer than 500 closed-end mortgage loans in each of the two preceding calendar years. New HMDA section 304(i)(2) provides that the requirements of HMDA section 304(b)(5) and (6) shall not apply with respect to open-end lines of credit of an insured depository institution or insured credit union if it originated fewer than 500 open-end lines of credit in each of the two preceding calendar years. Notwithstanding the new partial exemptions, new HMDA section 304(i)(3) provides that an insured depository institution must comply with HMDA section 304(b)(5) and (6) if it has received a rating of ''needs to improve record of meeting community credit needs'' during each of its two most recent examinations or a rating of ''substantial noncompliance in meeting community credit needs'' on its most recent examination under section 807(b)(2) of the CRA.[29]

On August 31, 2018, the Bureau issued an interpretive and procedural rule (2018 HMDA Rule) to implement and clarify section 104(a) of the EGRRCPA and effectuate the purposes of the EGRRCPA and HMDA.[30] The 2018 HMDA Rule clarifies that insured depository institutions and insured credit unions covered by a partial exemption have the option of reporting exempt data fields as long as they report all data fields within any exempt data point for which they report data; clarifies that only loans and lines of credit that are otherwise HMDA reportable count toward the thresholds for the partial exemptions; clarifies which of the data points in Regulation C are covered by the partial exemptions; designates a non-universal loan identifier for partially exempt transactions for institutions that choose not to report a ULI; and clarifies the exception to the partial exemptions for insured depository institutions with less than satisfactory CRA examination histories. The 2018 HMDA Rule also explains that, because the EGRRCPA does not provide a specific effective date for section 104(a) and because there are no other statutory indications that section 104(a) becomes effective upon regulatory action or some other event or condition, the best interpretation is that section 104(a) took effect when the EGRRCPA became law on May 24, 2018. In the 2018 HMDA Rule, the Bureau stated that it anticipated that, at a later date, it would initiate a notice-and-comment rulemaking to incorporate the interpretations and procedures into Regulation C and further implement the EGRRCPA. As discussed in part III below, in May 2019 the Bureau issued a notice of proposed rulemaking (May 2019 Proposal) that sought public comment on such an incorporation and further implementation.[31] After reviewing the comments received, the Bureau now issues this final rule that incorporates the interpretations and procedures into Regulation C and further implements the EGRRCPA.

[27] Public Law 115–174, 132 Stat. 1296 (2018).

[28] For purposes of HMDA section 104, the EGRRCPA provides that the term ''insured credit union'' has the meaning given the term in section 101 of the Federal Credit Union Act, 12 U.S.C. 1752, and the term ''insured depository institution'' has the meaning given the term in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. 1813.

[29] 12 U.S.C. 2906(b)(2).

[30] 83 FR 45325 (Sept. 7, 2018). Prior to issuing the 2018 HMDA Rule, the Bureau, the Board, the FDIC, the NCUA, and the OCC released statements on July 5, 2018, reiterating or referring to their December 2017 compliance statements and providing information about formatting and submission of 2018 loan/application registers. *See, e.g.,* Bureau of Consumer Fin. Prot., ''Statement on the Implementation of the Economic Growth, Regulatory Relief, and Consumer Protection Act Amendments to the Home Mortgage Disclosure Act'' (July 25, 2018), *https://www.consumerfinance.gov/about-us/newsroom/bureau-consumer-financial-protection-issues-statement-implementation-economic-growth-regulatory-relief-and-consumer-protection-act-amendments-home-mortgage-disclosure-act/.*

F. HMDA Coverage Under Current Regulation C

The Bureau's estimates of HMDA coverage and the sources used in deriving those estimates are explained in detail in the Bureau's analysis under Dodd-Frank Act section 1022(b) in part VII below.[32] The Bureau estimated in the May 2019 Proposal that currently there are about 4,960 financial institutions required to report their

[31] Home Mortgage Disclosure (Regulation C), 84 FR 20972 (May 13, 2019).

[32] *See infra* part VII.D.1. As discussed further in part VII below, the Bureau's analyses in the May 2019 Proposal were based on HMDA data collected in 2016 and 2017 and other sources. In part VII of this final rule, the Bureau has supplemented the analyses from the May 2019 Proposal relating to the provisions to implement the EGRRCPA and the provisions to extend the temporary open-end coverage threshold with the 2018 HMDA data that were released to the public on August 30, 2019. *See infra* part VII.E.2 & VII.E.3.

closed-end mortgage loans and applications under HMDA. The Bureau estimated that approximately 4,263 of these current reporters are depository institutions and approximately 697 are nondepository institutions. The Bureau estimated that together, these financial institutions originated about 7.0 million closed-end mortgage loans in calendar year 2017. The Bureau estimated that among those 4,960 financial institutions that are currently required to report closed-end mortgage loans under HMDA, about 3,300 insured depository institutions and insured credit unions are partially exempt for closed-end mortgage loans under the EGRRCPA and the 2018 HMDA Rule, and thus are not required to report a subset of the data points currently required by Regulation C for these transactions.

As explained in more detail in part VII.E.3 and table 3 below, under the temporary 500 open-end line of credit coverage threshold set in the 2017 HMDA Rule, the Bureau estimated in the May 2019 Proposal that currently there are about 333 financial institutions required to report about 1.23 million open-end lines of credit under HMDA. Of these institutions, the Bureau estimated that approximately 318 are depository institutions and approximately 15 are nondepository institutions. None of these 333 institutions are partially exempt.

In comparison, if the open-end coverage threshold were to adjust to 100 on January 1, 2020 pursuant to the 2017 HMDA Rule, the Bureau estimated in the May 2019 Proposal that the number of reporters would be about 1,014, who in total originate about 1.41 million open-end lines of credit. The Bureau estimated that approximately 972 of these open-end reporters would be depository institutions and approximately 42 would be nondepository institutions. The Bureau estimated that, among the 1,014 financial institutions that would be required to report open-end lines of credit under a threshold of 100, about 618 insured depository institutions and insured credit unions are partially exempt for open-end lines of credit under the EGRRCPA and the 2018 HMDA Rule, and thus would not be required to report a subset of the data points currently required by Regulation C for these transactions.

III. Summary of the Rulemaking Process

On May 2, 2019, the Bureau issued the May 2019 Proposal relating to Regulation C's coverage thresholds and the EGRRCPA partial exemptions under HMDA and requested public comment.[33] The May 2019 Proposal was published in the **Federal Register** on May 13, 2019.

In the May 2019 Proposal, the Bureau proposed two alternatives to amend Regulation C to increase the current 25-loan coverage threshold for reporting data about closed-end mortgage loans so that institutions originating fewer than either 50 closed-end mortgage loans, or alternatively 100 closed-end mortgage loans, in either of the two preceding calendar years would not have to report such data. The May 2019 Proposal proposed an effective date of January 1, 2020 for the amendment to the closed-end coverage threshold. The May 2019 Proposal also proposed to adjust the coverage threshold for reporting data about open-end lines of credit by (a) extending to January 1, 2022 the current temporary coverage threshold of 500 open-end lines of credit, and (b) setting the permanent coverage threshold at 200 open-end lines of credit upon the expiration of the proposed extension of the temporary coverage threshold. In the May 2019 Proposal, the Bureau also proposed to incorporate into Regulation C the interpretations and procedures from the interpretive and procedural rule that the Bureau issued on August 31, 2018 to implement and clarify section 104(a) of the EGRRCPA,[34] and proposed to make other changes to effectuate section 104(a).

The comment period for the May 2019 Proposal closed on June 12, 2019.[35] The Bureau received over 300 comments from lenders, industry trade associations, consumer groups, consumers, members of Congress, and others. As discussed in more detail below, the Bureau has considered these comments in adopting this final rule.

Among the comments received were a number of letters expressing concern that the national loan level dataset for 2018 and the Bureau's annual overview of residential mortgage lending based on that data (collectively, the 2018 HMDA Data) would not be available until after the close of the comment period for the May 2019 Proposal. Stakeholders asked to submit comments on the May 2019 Proposal that reflect consideration of the 2018 HMDA Data. To allow for the submission of such comments, the Bureau reopened the comment period on certain aspects of the proposal until October 15, 2019.[36] Specifically, the Bureau reopened the comment period with respect to: (1) The Bureau's proposed amendments to the permanent coverage threshold for closed-end mortgage loans, (2) the Bureau's proposed amendments to the permanent coverage threshold for open-end lines of credit, and (3) the appropriate effective date for any amendment to the closed-end coverage threshold.[37] After reviewing the comments it receives by the October 15, 2019 deadline, the Bureau anticipates that it will issue a separate final rule in 2020 addressing the permanent thresholds for closed-end mortgage loans and open-end lines of credit. The Bureau therefore generally does not discuss the proposed amendments to those permanent threshold provisions for the remainder of this document.

The Bureau concluded that further comment was not necessary with respect to the other aspects of the May 2019 Proposal.[38] The Bureau therefore did not reopen the comment period with respect to the May 2019 Proposal's proposed two-year extension of the temporary coverage threshold for open-end lines of credit or the provisions in the May 2019 Proposal that would incorporate the EGRRCPA partial exemptions into Regulation C and further effectuate EGRRCPA section 104(a). This final rule addresses these aspects of the May 2019 Proposal.

IV. Legal Authority

The Bureau is issuing this final rule pursuant to its authority under the Dodd-Frank Act and HMDA. Section 1061 of the Dodd-Frank Act transferred to the Bureau the ''consumer financial protection functions'' previously vested in certain other Federal agencies, including the Board.[39] The term ''consumer financial protection function'' is defined to include ''all authority to prescribe rules or issue orders or guidelines pursuant to any Federal consumer financial law, including performing appropriate

[33] 84 FR 20972 (May 13, 2019). The Bureau also issued concurrently with the May 2019 Proposal an Advance Notice of Proposed Rulemaking to solicit comment, data, and information from the public about the data points that the 2015 HMDA Rule added to Regulation C or revised to require additional information and Regulation C's coverage of certain business- or commercial-purpose transactions. Home Mortgage Disclosure (Regulation C) Data Points and Coverage, 89 FR 20049 (May 8, 2019); *see also* Home Mortgage Disclosure (Regulation C), 80 FR 66128 (Oct. 28, 2015). The Advance Notice of Proposed Rulemaking was published in the **Federal Register** on May 8, 2019.

[34] Partial Exemptions from the Requirements of the Home Mortgage Disclosure Act Under the Economic Growth, Regulatory Relief, and Consumer Protection Act (Regulation C), 83 FR 45325 (Sept. 7, 2018).

[35] A separate comment period related to the Paperwork Reduction Act closed on July 12, 2019. 84 FR 20972 (May 13, 2019).

[36] 84 FR 37804 (Aug. 2, 2019).

[37] *Id.* at 37806.

[38] *Id.*

[39] 12 U.S.C. 5581. Section 1094 of the Dodd-Frank Act also replaced the term ''Board'' with ''Bureau'' in most places in HMDA. 12 U.S.C. 2803 *et seq.*

functions to promulgate and review such rules, orders, and guidelines.'' [40] Section 1022(b)(1) of the Dodd-Frank Act authorizes the Bureau's Director to prescribe rules ''as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws, and to prevent evasions thereof.'' [41] Both HMDA and title X of the Dodd-Frank Act are Federal consumer financial laws.[42] Accordingly, the Bureau has authority to issue regulations to implement HMDA.

HMDA section 305(a) broadly authorizes the Bureau to prescribe such regulations as may be necessary to carry out HMDA's purposes.[43] These regulations may include classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Bureau are necessary and proper to effectuate the purposes of HMDA, and prevent circumvention or evasion thereof, or to facilitate compliance therewith.[44]

V. Section-by-Section Analysis

Section 1003.2 Definitions

2(g) Financial Institution

Regulation C requires financial institutions to report HMDA data. Section 1003.2(g) defines financial institution for purposes of Regulation C and sets forth Regulation C's institutional coverage criteria for depository financial institutions and nondepository financial institutions.[45] In the 2015 HMDA Rule, the Bureau adjusted the institutional coverage criteria under Regulation C so that depository institutions and nondepository institutions are required to report HMDA data if they: (1) Originated at least 25 closed-end mortgage loans or 100 open-end lines of credit in each of the two preceding calendar years, and (2) meet all of the other applicable criteria for reporting. In the 2017 HMDA Rule, the Bureau amended § 1003.2(g) and related commentary to increase temporarily from 100 to 500 the number of open-end originations required to trigger reporting responsibilities.[46] In the May 2019 Proposal, the Bureau proposed to amend §§ 1003.2(g)(1)(v)(B) and (g)(2)(ii)(B) and 1003.3(c)(12) and related commentary to extend to January 1, 2022, the current temporary open-end coverage threshold of 500 open-end lines of credit. For the reasons discussed below, the Bureau is finalizing the amendments relating to the two-year extension of the temporary open-end coverage threshold as proposed.

The Bureau also proposed in May 2019 to increase the permanent open-end coverage threshold to 200 open-end lines of credit effective January 1, 2022. As discussed in part III above, the Bureau has reopened the comment period relating to the May 2019 Proposal's proposed amendments to the permanent thresholds for closed-end mortgage loans and open-end lines of credit.[47] After reviewing the comments received during the reopened comment period, the Bureau intends to issue a final rule addressing the permanent open-end coverage threshold that would take effect on January 1, 2022.

Legal Authority for Changes to § 1003.2(g)

In the 2015 HMDA Rule, the Bureau adopted the thresholds for certain depository institutions in § 1003.2(g)(1) pursuant to its authority under section 305(a) of HMDA to provide for such adjustments and exceptions for any class of transactions that in the judgment of the Bureau are necessary and proper to effectuate the purposes of HMDA. Pursuant to section 305(a) of HMDA, for the reasons given in the 2015 HMDA Rule, the Bureau found that the exception in § 1003.2(g)(1) is necessary and proper to effectuate the purposes of and facilitate compliance with HMDA. The Bureau found that the provision, by reducing burden on financial institutions and establishing a consistent loan-volume test applicable to all financial institutions, would facilitate compliance with HMDA's requirements.[48] Additionally, as discussed in the 2015 HMDA Rule, the Bureau adopted the thresholds for certain nondepository institutions in § 1003.2(g)(2) pursuant to its interpretation of HMDA sections 303(3)(B) and 303(5), which require persons other than banks, savings associations, and credit unions that are ''engaged for profit in the business of mortgage lending'' to report HMDA data. The Bureau stated that it interprets these provisions, as the Board also did, to evince the intent to exclude from coverage institutions that make a relatively small number of mortgage loans.[49] Pursuant to its authority under HMDA section 305(a), and for the reasons discussed below, the Bureau believes that this final rule's amendments to extend for two years the temporary thresholds for open-end lines of credit in § 1003.2(g)(1) and (2) are necessary and proper to effectuate the purposes of HMDA and facilitate compliance with HMDA by reducing burden and establishing a consistent loan-volume test, while still providing significant market coverage.

2(g)(1) Depository Financial Institution

2(g)(1)(v)

2(g)(1)(v)(B)

Background on Reporting Data Concerning Open-End Lines of Credit Under the 2015 HMDA Rule and the 2017 HMDA Rule

By its terms, the definition of ''mortgage loan'' in HMDA covers all loans secured by residential real property and home improvement loans whether open- or closed-end.[50] However, home-equity lines of credit were uncommon in the 1970s and early 1980s when Regulation C was first issued, and the Board's definition covered only closed-end loans. In 2000, in response to the increasing importance of open-end lending in the housing market, the Board proposed to revise Regulation C to require mandatory reporting of all home-equity lines of credit, which were optionally reported.[51] However, the Board's 2002 final rule left open-end reporting voluntary, as the Board determined that the benefits of mandatory reporting relative to other then proposed amendments (such as collecting information about higher-priced loans) did not justify the increased burden.[52]

As discussed in the 2015 HMDA Rule, open-end mortgage lending continued to increase in the years following the Board's 2002 final rule, particularly in areas with high home-price appreciation.[53] In light of that development and the role that open-end lines of credit may have played in contributing to the financial crisis,[54] the

[40] 12 U.S.C. 5581(a)(1)(A).

[41] 12 U.S.C. 5512(b)(1).

[42] Dodd-Frank Act section 1002(14), 12 U.S.C. 5481(14) (defining ''Federal consumer financial law'' to include the ''enumerated consumer laws'' and the provisions of title X of the Dodd-Frank Act); Dodd-Frank Act section 1002(12), 12 U.S.C. 5481(12) (defining ''enumerated consumer laws'' to include HMDA).

[43] 12 U.S.C. 2804(a).

[44] *Id.*

[45] 12 CFR 1003.2(g)(1) (definition of depository financial institution); 1003.2(g)(2) (definition of nondepository financial institution).

[46] 82 FR 43088, 43095 (Sept. 13, 2017).

[47] 84 FR 37804 (Aug. 2, 2019).

[48] 80 FR 66128, 66150 (Oct. 28, 2015).

[49] *Id.* at 66153.

[50] HMDA section 303(2), 12 U.S.C. 2802(2).

[51] 65 FR 78656, 78659–60 (Dec. 15, 2000). In 1988, the Board had amended Regulation C to permit, but not require, financial institutions to report certain home-equity lines of credit. 53 FR 31683, 31685 (Aug. 19, 1988).

[52] 67 FR 7222, 7225 (Feb. 15, 2002).

[53] 80 FR 66128, 66160 (Oct. 28, 2015).

[54] *Id.* The Bureau stated in the 2015 HMDA Rule that research indicated that some real estate

Bureau decided in the 2015 HMDA Rule to require reporting of dwelling-secured, consumer purpose open-end lines of credit,[55] concluding that doing so was a reasonable interpretation of ''mortgage loan'' in HMDA and necessary and proper to effectuate the purposes of HMDA and prevent evasions thereof.[56]

As noted in the 2015 HMDA Rule, in expanding coverage to include mandatory reporting of open-end lines of credit, the Bureau recognized that doing so would impose one-time and ongoing operational costs on reporting institutions; that the one-time costs of modifying processes and systems and training staff to begin open-end line of credit reporting likely would impose significant costs on some institutions; and that institutions' ongoing reporting costs would increase as a function of their open-end lending volume.[57] The Bureau sought to avoid imposing these costs on small institutions with limited open-end lending, where the benefits of reporting the data do not justify the costs of reporting.[58] In seeking to draw such a line, the Bureau acknowledged that it was handicapped by the lack of available data concerning open-end lending.[59] This created challenges both in estimating the distribution of open-end origination volume across financial institutions and in estimating the one-time and ongoing costs that institutions of various sizes would be likely to incur in reporting data on open-end lending.

To estimate the one-time and ongoing costs of reporting data under HMDA in the 2015 HMDA Rule, the Bureau identified seven ''dimensions'' of compliance operations and used those to define three broadly representative financial institutions according to the overall level of complexity of their compliance operations: ''tier 1'' (high-complexity); ''tier 2'' (moderate-complexity); and ''tier 3'' (low-complexity).[60] The Bureau then sought to estimate one-time and ongoing costs for a representative institution in each tier.[61]

The Bureau recognized in the 2015 HMDA Rule that the one-time cost of reporting open-end lines of credit could be substantial because most financial institutions had not reported open-end lines of credit and thus would have to develop completely new systems to begin reporting these data. As a result, there would be one-time costs to create processes and systems for open-end lines of credit.[62] However, for tier 3, low-complexity institutions, the Bureau believed that the additional one-time costs of open-end reporting would be relatively low. Because these institutions are less reliant on information technology systems for HMDA reporting and they may process open-end lines of credit on the same system and in the same business unit as closed-end mortgage loans, their one-time costs would be derived mostly from new training and procedures adopted for the overall changes in the final rule, not distinct from costs related to changes in reporting of closed-end mortgage loans.[63]

The Bureau acknowledged in the 2015 HMDA Rule that ongoing costs for open-end reporting vary by institutions due to many factors, such as size, operational structure, and product complexity, and that this variance exists on a continuum that was impossible to capture fully.[64] At the same time, the Bureau stated it believed that the HMDA reporting process and ongoing operational cost structure for open-end reporting would be fundamentally similar to closed-end reporting.[65] Thus, using the ongoing cost estimates developed for closed-end reporting, the Bureau estimated that for a representative tier 1 institution the ongoing operational costs would be $273,000 per year; for a representative tier 2 institution $43,400 per year; and for a representative tier 3 institution $8,600 per year.[66] These translated into costs per HMDA record of approximately $9, $43, and $57 respectively.[67] The Bureau acknowledged that, precisely because no good source of publicly available data exists concerning open-end lines of credit, it was difficult to predict the accuracy of the Bureau's cost estimates but also stated its belief that these estimates were reasonably reliable.[68]

Drawing on all of these estimates, the Bureau decided in the 2015 HMDA Rule to establish an open-end coverage threshold that would require institutions that originate 100 or more open-end lines of credit in each of the two preceding calendar years to report data on such lines of credit. The Bureau estimated that this threshold would avoid imposing the burden of establishing mandatory open-end reporting on approximately 3,000 predominantly smaller-sized institutions with low-volume open-end lending[69] and would require reporting by 749 financial institutions, all but 24 of which would also report data on their closed-end mortgage lending.[70] The Bureau explained in the 2015 HMDA Rule that it believed this threshold appropriately balanced the benefits and burdens of covering institutions based on their open-end mortgage lending.[71] However, as discussed in the 2017 HMDA Rule, the Bureau lacked robust data for the estimates that it used to

investors used open-end, home-secured lines of credit to purchase non-owner occupied properties, which correlated with higher first-mortgage defaults and home-price depreciation during the financial crisis. *Id.* In the years leading up to the crisis, such home-equity lines of credit often were made and fully drawn more or less simultaneously with first-lien home purchase loans, essentially creating high loan-to-value home purchase transactions that were not visible in the HMDA dataset. *Id.*

[55] The Bureau also required reporting of applications for, and originations of, dwelling-secured commercial-purpose lines of credit for home purchase, home improvement, or refinancing purposes. *Id.* at 66171.

[56] *Id.* at 66157–62. HMDA and Regulation C are designed to provide citizens and public officials sufficient information about mortgage lending to ensure that financial institutions are serving the housing needs of their communities, to assist public officials in distributing public-sector investment so as to attract private investment to areas where it is needed, and to assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes. The Bureau believes that collecting information about all dwelling-secured, consumer-purpose open-end lines of credit serves these purposes.

[57] *Id.* at 66128, 66161.

[58] *Id.* at 66149.

[59] *Id.*

[60] *Id.* at 66261, 66269–70. In the 2015 HMDA Rule and the 2017 HMDA Rule, the Bureau assigned financial institutions to tiers by adopting cutoffs based on the estimated open-end line of credit volume. *Id.* at 66285; 82 FR 43088, 43128 (Sept. 13, 2017). Specifically, the Bureau assumed the lenders that originated fewer than 200 but more than 100 open-end lines of credit were tier 3 (low-complexity) open-end reporters; lenders that originate between 200 and 7,000 open-lines of credit were tier 2 (moderate-complexity) open-end reporters; and lenders that originated more than 7,000 open-end lines of credit were tier 1 (high-complexity) open-end reporters. 80 FR 66128, 66285 (Oct. 28, 2015); 82 FR 43088, 43128 (Sept. 13, 2017). As explained below in part VII.D.1, for purposes of this final rule, the Bureau has used a more precise methodology to assign eligible financial institutions to tiers 2 and 3 for their open-end reporting, which relies on constraints relating to the estimated numbers of impacted institutions and loan/application register records for the applicable provision.

[61] 80 FR 66128, 66264–65 (Oct. 28, 2015); *see also id.* at 66284.

[62] *Id.* at 66264; *see also id.* at 66284–85.

[63] *Id.* at 66265; *see also id.* at 66284.

[64] *Id.* at 66285.

[65] *Id.*

[66] *Id.* at 66264, 66286.

[67] *Id.*

[68] *Id.* at 66162.

[69] *Id.* The estimate of the number of institutions that would be excluded from reporting open-end lines of credit by the transactional coverage threshold was relative to the number that would have been covered under the Bureau's proposal that led to the 2015 HMDA Rule. Under that proposal, a financial institution would have been required to report its open-end lines of credit if it had originated at least 25 closed-end mortgage loans in each of the preceding two years without regard to how many open-end lines of credit the institution originated. *See* Home Mortgage Disclosure (Regulation C), 79 FR 51732 (Aug. 29, 2014).

[70] 80 FR 66128, 66281 (Oct. 28, 2015).

[71] *Id.* at 66162.

establish the open-end threshold in the 2015 HMDA Rule.[72]

The 2017 HMDA Rule explained that, between 2013 and 2017, the number of dwelling-secured open-end lines of credit financial institutions originated had increased by 36 percent.[73] The Bureau noted that, to the extent institutions that had been originating fewer than 100 open-end lines of credit shared in that growth, the number of institutions at the margin that would be required to report under an open-end threshold of 100 lines of credit would also increase.[74] Additionally, in the 2017 HMDA Rule, the Bureau explained that information received by the Bureau since issuing the 2015 HMDA Rule had caused the Bureau to question its assumption that certain low-complexity institutions[75] process home-equity lines of credit on the same data platforms as closed-end mortgages, on which the Bureau based its assumption that the one-time costs for these institutions would be minimal.[76] After issuing the 2015 HMDA Rule, the Bureau had heard reports suggesting that one-time costs to begin reporting open-end lines of credit could be as high as $100,000 for such institutions.[77] The Bureau likewise had heard reports suggesting that the ongoing costs for these institutions to report open-end lines of credit, which the Bureau estimated would be under $10,000 per year and add under $60 per line of credit, could be at least three times higher than the Bureau had estimated.[78]

Based on this information regarding one-time and ongoing costs and new data indicating that more institutions would have reporting responsibilities under the 100-loan open-end threshold than estimated in the 2015 HMDA Rule, the Bureau proposed in 2017 to increase for two years (*i.e.,* until January 1, 2020) the open-end threshold to 500.[79] This temporary increase was intended to allow the Bureau to collect additional data and assess what open-end coverage threshold would best balance the benefits and burdens of covering institutions. The Bureau finalized the proposal after notice and comment in the 2017 HMDA Rule.[80]

Developments After the 2015 HMDA Rule and the 2017 HMDA Rule

As the Bureau explained in the May 2019 Proposal, several developments since the Bureau issued the 2015 HMDA Rule have affected the Bureau's analyses of the costs and benefits associated with the open-end line of credit coverage threshold. The Bureau is concerned that, in establishing a 100-loan threshold for open-end lines of credit in the 2015 HMDA Rule, it may have underestimated the number of institutions that would be covered and the reporting burden on smaller covered institutions. Table 3 in the Bureau's analysis under Dodd-Frank Act section 1022(b) in part VII.E.3 below provides the Bureau's updated coverage estimates from the May 2019 Proposal for reporting thresholds of 100 and 500 open-end lines of credit.[81] As explained in more detail in part VII.E.3, these coverage estimates indicate that the total number of institutions exceeding the open-end coverage threshold of 100 open-end lines of credit in 2018 is approximately 1,014. This estimate is significantly higher than the estimate of 749 in the 2015 HMDA Rule that was based on 2013 data.[82]

As explained in more detail in part VII below, the estimates the Bureau used in the 2015 HMDA Rule may understate the burden that open-end reporting would impose on smaller institutions if they were required to begin reporting on January 1, 2020. For example, in developing the one-time cost estimates for open-end lines of credit in the 2015 HMDA Rule, the Bureau had envisioned that there would be cost sharing at the corporate level between the line of business that conducts open-end lending and the line of business that conducts closed-end lending, as the implementation of open-end reporting that became mandatory under the 2015 HMDA Rule would coincide with the implementation of the changes to closed-end reporting under the 2015 HMDA Rule. However, this type of cost sharing is less likely now because financial institutions have already implemented almost all of the closed-end reporting changes required under the 2015 HMDA Rule.

Another development since the Bureau finalized the 2015 HMDA Rule is the enactment of the EGRRCPA, which created partial exemptions from HMDA's requirements that certain insured depository institutions and insured credit unions may now use.[83] The partial exemption for open-end lines of credit under the EGRRCPA relieves certain insured depository institutions and insured credit unions that originated fewer than 500 open-end mortgage loans in each of the two preceding calendar years of the obligation to report many of the data points generally required by Regulation C.[84] The partial exemptions are available to the vast majority of the financial institutions that will be excluded by the extension of the temporary open-end coverage threshold.[85] The EGRRCPA has thus changed the costs and benefits associated with different possible coverage thresholds, as discussed in more detail below.

Temporary Open-End Line of Credit Threshold for Institutional Coverage of Depository Institutions

As explained above, the 2015 HMDA Rule established an institutional coverage threshold in § 1003.2(g) for open-end lines of credit of at least 100 open-end lines of credit in each of the two preceding calendar years.[86] In the 2017 HMDA Rule, the Bureau amended § 1003.2(g)(1)(v)(B) and comments 2(g)–3 and –5, effective January 1, 2018, to increase temporarily the open-end threshold from 100 to 500. In addition, effective January 1, 2020, these amendments restore a permanent threshold of 100.[87] In the May 2019 Proposal, the Bureau proposed to extend

[72] 82 FR 43088, 43094 (Sept. 13, 2017).

[73] *Id.*

[74] *Id.*

[75] *See supra* notes 60–63 and accompanying text.

[76] 82 FR 43088, 43094 (Sept. 13, 2017).

[77] *Id.*

[78] *Id.*

[79] 82 FR 33455 (July 20, 2017).

[80] 82 FR 43088 (Sept. 13, 2017). Comments received on the July 2017 HMDA Proposal to change temporarily the open-end threshold are discussed in the 2017 HMDA Rule. *Id.* at 43094–95.

[81] As discussed further in the analysis under Dodd-Frank Act section 1022(b) in part VII, the Bureau's analyses in the May 2019 Proposal were based on HMDA data collected in 2016 and 2017 and other sources. For part VII of the final rule, the Bureau has supplemented the analyses with the 2018 HMDA data now available and released to the public on August 30, 2019.

[82] 82 FR 43088, 43094 (Sept. 13, 2017).

[83] Public Law 115–174, 132 Stat. 1296 (2018).

[84] See the section-by-section analysis of § 1003.3(d) in part IV above.

[85] *See infra* part VII.E.3.

[86] The 2015 HMDA Rule established complementary thresholds that determine whether a financial institution is required to report data on closed-end mortgage loans or open-end lines of credit, respectively. 80 FR 66128, 66146, 66149, 66162 (Oct. 28, 2015). The 2017 HMDA Rule corrected a drafting error to ensure the institutional coverage threshold and the transactional coverage threshold were complementary. 82 FR 43088, 43100, 43102 (Sept. 13, 2017). These institutional and transactional coverage thresholds are distinct from the thresholds for the EGRRCPA partial exemptions in new § 1003.3(d)(2) and (3).

[87] 82 FR 43088, 43094 (Sept. 13, 2017). In the 2015 HMDA Rule and 2017 HMDA Rule, the Bureau declined to retain optional reporting of open-end lines of credit, after concluding that improved visibility into this segment of the mortgage market is critical because of the risks posed by these products to consumers and local markets and the lack of other publicly available data about these products. *Id.* at 43095; 80 FR 66128, 66160–61 (Oct. 28, 2015). However, Regulation C as amended by the 2017 HMDA Rule permits voluntary reporting by financial institutions that do not meet the open-end threshold. 12 CFR 1003.3(c)(12).

the temporary increase for two years and to set the permanent coverage threshold at 200 open-end lines of credit upon the expiration of the proposed extension of the temporary coverage threshold. For the reasons discussed below, the Bureau now amends § 1003.2(g)(1)(v)(B) and comments 2(g)–3 and –5, effective January 1, 2020, to extend until January 1, 2022, the temporary open-end institutional coverage threshold for depository institutions of 500 open-end lines of credit. The Bureau is also finalizing conforming amendments to extend for two years the temporary open-end institutional coverage threshold for nondepository institutions in § 1003.2(g)(2)(ii)(B) and to align the timeframe of the temporary open-end transactional coverage threshold in § 1003.3(c)(12), as discussed below. As noted above, the Bureau intends to address in a separate final rule in 2020 the May 2019 Proposal's proposed amendment to the permanent coverage threshold for open-end lines of credit.[88]

The Bureau received a number of comments relating to the proposed extension of the temporary open-end threshold in §§ 1003.2(g) and 1003.3(c)(12). Commenters typically discussed in a general way the open-end threshold for HMDA coverage, without distinguishing between the threshold applicable to depository institutions under § 1003.2(g)(2)(1)(v)(B) and the threshold applicable to nondepository institutions under § 1003.2(g)(2)(ii)(B).

Industry commenters generally expressed support for the proposed extension. Many industry commenters described the significant costs that HMDA data collection and reporting imposes on small institutions, and some expressed concern that they might not be able to offer open-end lines of credit at all if the 100 open-end line of credit threshold takes effect. These commenters stated that the anticipated cost savings support extending the current threshold of 500 and noted that the current threshold of 500 would provide relief for over 600 institutions in 2020 and 2021. A number of industry commenters urged the Bureau to make the temporary threshold of 500 open-end lines of credit permanent, either immediately or during the two-year period of the proposed extension; to raise the open-end threshold even further (*e.g.,* to 1,000); or to return to optional rather than mandatory reporting of open-end lines of credit.

Other commenters, including a number of consumer and civil rights groups, a bank, a State attorney general, and some members of Congress, expressed opposition to the proposal as a whole based on their concerns about the consequences of exempting institutions from HMDA. They indicated, for example, that extending the temporary threshold of 500 open-end loans for another two years could exclude a significant percentage of the market. They also expressed concern that lenders and loans might escape public scrutiny and that there would be fewer safeguards to prevent events similar to the 2008 financial crisis. However, even some commenters who opposed increasing the permanent open-end threshold recognized the need to provide additional time for lenders that will be first-time open-end reporters to prepare.

The Bureau has considered the comments received and, pursuant to its authority under HMDA section 305(a) as discussed above, has decided to extend the temporary threshold of 500 open-end lines of credit for two years, as proposed. As discussed below, the extension of the temporary coverage threshold will provide additional time for the Bureau to issue a final rule in 2020 on the permanent open-end coverage threshold and for affected institutions to prepare for compliance with that final rule and will reduce HMDA costs over the next two years, while still providing significant market coverage.

The Bureau continues reviewing HMDA data on open-end lines of credit that financial institutions collected in 2018 and reported to the Bureau in 2019. As explained in part III above, the Bureau reopened the comment period on the May 2019 Proposal to allow for additional comment relating to these open-end data. The two-year temporary extension of the current 500 open-end line of credit coverage threshold will ensure the Bureau has time to consider the initial open-end data submitted pursuant to the 2015 HMDA Rule and any additional comments received about that data before finalizing any change to the permanent threshold.

The two-year extension of the temporary coverage threshold of 500 open-end lines of credit will also ensure that institutions that would be required to report under any new permanent threshold that the Bureau sets in 2020 to take effect in 2022 have time to adapt their systems and prepare for compliance. Consistent with feedback provided by industry stakeholders in connection with the 2015 HMDA Rule and the 2017 HMDA Rule, a number of commenters indicated in response to the May 2019 Proposal that a long implementation period is necessary when coverage changes result in new institutions having reporting obligations under HMDA. The Bureau determines that the two-year extension of the temporary coverage threshold of 500 lines of credit will provide any newly covered institutions with sufficient time to revise and update policies and procedures, implement any necessary systems changes, and train staff before any permanent threshold that the Bureau sets in 2020 takes effect in 2022.

The extension of the temporary coverage threshold will also relieve institutions that originate between 100 and 499 open-end lines of credit of ongoing costs associated with reporting open-end lines of credit over the next two years. As noted above, many financial institutions and trade associations expressed in their comments how costly HMDA compliance can be on an ongoing basis for smaller institutions. In total, the Bureau estimates that extending the temporary open-end coverage threshold for two years will reduce operational costs for institutions by about $9.4 million per year in the years 2020 and 2021.[89]

While the extension of the temporary threshold increase will reduce market coverage compared to a lower threshold, information about a sizeable portion of the market will still be available in the next two years under the temporary threshold of 500. The Bureau has used multiple data sources, including credit union Call Reports, Call Reports for banks and thrifts, HMDA data, and Consumer Credit Panel data, to develop updated estimates about open-end originations for institutions that are active and to assess the impact of various thresholds on the numbers of institutions which report and the number of loans about which they report under various scenarios.[90] Based

[88] Because the extension lasts two years, and the Bureau has not yet made a determination about its proposed permanent threshold, the final rule restores effective January 1, 2022 the threshold set in the 2015 HMDA Rule of 100 open-end lines of credit in §§ 1003.2(g) and 1003.3(c)(12), pending further Bureau action. After the reopened comment period relating to the permanent threshold closes, the Bureau intends to issue a final rule in 2020 addressing the permanent threshold for open-end lines of credit that would take effect on January 1, 2022.

[89] Additional explanation of the Bureau's cost estimates and how the Bureau's estimate in this final rule of operational savings compares to its estimate in the May 2019 Proposal is provided in the Bureau's analysis under Dodd-Frank Act section 1022(b) in part VII.E.3 below. As explained in part VII below, the Bureau derived these estimates using estimates of savings for open-end lines of credit for representative financial institutions.

[90] Because collection of data on open-end lines of credit only became mandatory starting in 2018 under the 2015 HMDA Rule and 2017 HMDA Rule,

Continued

on this information, the Bureau estimates that, as of 2018, approximately 333 financial institutions originated at least 500 open-end lines of credit in both of the two preceding years, and approximately 1,014 financial institutions originated at least 100 open-end lines of credit in both of the two preceding years.[91] Under the temporary 500-loan open-end threshold, the Bureau estimates about 1.23 million lines of credit or approximately 78 percent of origination volume will be reported by about 5 percent of all institutions providing open-end lines of credit.[92]

Extending the temporary threshold of 500 open-end lines of credit for two years will decrease information about the open-end line of credit market relative to the information that would be reported if the Bureau were to allow the 100-loan threshold to take effect on January 1, 2020. However, the effect of this threshold increase will be limited, because the EGRRCPA now provides a partial exemption that exempts almost all of the institutions that the temporary increase will affect from any obligation to report many of the data points generally required by Regulation C for their open-end lines of credit. In light of the EGRRCPA's partial exemption from reporting certain data for open-end lines of credit for certain insured depository institutions and insured credit unions, continuing the open-end line of credit coverage threshold at 500 will result in a much smaller loss of data than the Bureau anticipated when it adopted a permanent threshold of 100 open-end lines of credit in the 2015 HMDA Rule or when it revisited the open-end line of credit coverage threshold in the 2017 HMDA Rule. The Bureau determines that the limited decrease in information reported occasioned by the temporary adjustment to the open-end threshold is justified by the benefits discussed above of reducing the burden on smaller institutions. This burden reduction is greater than the Bureau anticipated in the 2015 HMDA Rule, because the number of institutions affected and the costs per institution associated with reporting are higher than anticipated, as explained above and in part VII below.

2(g)(2) Nondepository Financial Institution

2(g)(2)(ii)(B)

Temporary Open-End Line of Credit Threshold for Institutional Coverage of Nondepository Institutions

The 2015 HMDA Rule established a coverage threshold of 100 open-end lines of credit in § 1003.2(g)(2)(ii)(B) as part of the definition of nondepository financial institution. As discussed in more detail in the section-by-section analysis of § 1003.2(g)(1)(v)(B) above, the 2017 HMDA Rule amended §§ 1003.2(g)(1)(v)(B) and (g)(2)(ii)(B) and 1003.3(c)(12) and related commentary to raise temporarily the open-end coverage threshold to 500 lines of credit for calendar years 2018 and 2019.[93] In the May 2019 Proposal, the Bureau proposed to extend to January 1, 2022, Regulation C's temporary open-end threshold of 500 open-end lines of credit for institutional and transactional coverage of both depository and nondepository institutions. After the end of the extension, the May 2019 Proposal would set the threshold at 200 open-end lines of credit. The Bureau is now finalizing the amendments to extend for two years the temporary open-end institutional coverage threshold for nondepository institutions in § 1003.2(g)(2)(ii)(B) and intends to address the May 2019 Proposal's proposed amendment to the permanent coverage threshold for open-end lines of credit in a separate final rule in 2020.[94]

Commenters typically discussed generally the open-end threshold for HMDA coverage, without distinguishing between the threshold applicable to depository institutions under § 1003.2(g)(2)(1)(v)(B) and the threshold applicable to nondepository institutions under § 1003.2(g)(2)(ii)(B). Comments received regarding the proposed extension of the temporary open-end threshold are discussed in the section-by-section analysis of § 1003.2(g)(1)(v)(B).

For the reasons discussed in the section-by-section analysis of § 1003.2(g)(1)(v)(B), and to ensure the thresholds are consistent for depository and nondepository institutions, the Bureau is finalizing as proposed the extension to January 1, 2022 of Regulation C's temporary open-end threshold of 500 open-end lines of credit. As discussed in part III above, the Bureau has reopened the comment period relating to the May 2019 Proposal's proposed amendments to the permanent thresholds for closed-end mortgage loans and open-end lines of credit.[95] After the reopened comment period closes, the Bureau intends to issue a final rule in 2020 addressing the permanent threshold for open-end lines of credit. This permanent threshold would take effect on January 1, 2022. This final rule temporarily sets the open-end line of credit threshold for institutional coverage of nondepository institutions in § 1003.2(g)(2)(ii)(B) at 500 for calendar years 2020 and 2021, as proposed. This amendment to the open-end line of credit threshold for institutional coverage of nondepository institutions in § 1003.2(g)(2)(ii)(B) conforms to the amendment that the Bureau is finalizing with respect to the two-year extension of the temporary open-end threshold for institutional coverage for depository institutions in § 1003.2(g)(1)(v)(B) and the two-year extension of the temporary open-end threshold for transactional coverage in § 1003.3(c)(12).

Pursuant to its authority under HMDA section 305(a) as discussed above, the Bureau is extending for two years the temporary threshold for open-end lines of credit in § 1003.2(g)(2)(ii)(B). The Bureau determines that this final rule's amendments to § 1003.2(g)(2)(ii)(B) will effectuate the purposes of HMDA by ensuring significant coverage of nondepository mortgage lending. This extension also facilitates compliance with HMDA by reducing burden on smaller institutions and excluding nondepository institutions that are not engaged for profit in the business of mortgage lending. The Bureau believes that the reasons provided for extending the temporary open-end threshold for depository institutions in the section-by-section analysis of § 1003.2(g)(1)(v)(B) above apply to the temporary threshold for nondepository institutions as well. Additionally, the extension of the temporary threshold in § 1003.2(g)(2)(ii)(B) will promote consistency by subjecting nondepository institutions to the same threshold that applies to the depository institutions that make up the bulk of the open-end line of credit market. According to the Bureau's estimates, nondepository institutions account for only a small percentage of the institutions and loans in the open-end line of credit market.[96] Table 3 in the Bureau's analysis under Dodd-Frank Act section 1022(b) in part VII.E.3 below provides coverage estimates for nondepository institutions

no single data source existed as of the time of the May 2019 Proposal that could accurately capture the number of originations of open-end lines of credit in the entire market and by lenders. In part VII of this final rule, the Bureau has supplemented the analyses from the May 2019 Proposal with the 2018 HMDA data that were released to the public on August 30, 2019. For information about the HMDA data used in developing and supplementing the Bureau estimates, see *infra* part VII.E.3.

[91] *See infra* part VII.E.3 at table 3 for estimates of coverage among all lenders that are active in the open-end line of credit market at open-end coverage thresholds of 100 and 500.

[92] *Id.*

[93] 82 FR 43088, 43095 (Sept. 13, 2017).

[94] *See supra* note 88.

[95] 84 FR 37804 (Aug. 2, 2019).

[96] See *infra* part VII.E.3 at table 3.

at the current temporary threshold of 500 open-end lines of credit that the Bureau is extending.

Section 1003.3 Exempt Institutions and Excluded and Partially Exempt Transactions

3(c) Excluded Transactions

3(c)(12)

As adopted in the 2015 HMDA Rule, § 1003.3(c)(12) provides an exclusion from the requirement to report open-end lines of credit for institutions that did not originate at least 100 such loans in each of the two preceding calendar years. This transactional coverage threshold was intended to complement an open-end reporting threshold included in the definition of financial institution in § 1003.2(g), which sets forth Regulation C's institutional coverage. The 2017 HMDA Rule replaced ''each'' with ''either'' in § 1003.3(c)(12) to correct a drafting error and to ensure that the exclusions provided in that section mirror the loan-volume thresholds for financial institutions in § 1003.2(g).[97] As discussed in more detail in the section-by-section analysis of § 1003.2(g), in the 2017 HMDA Rule the Bureau also amended §§ 1003.2(g) and 1003.3(c)(12) and related commentary to raise temporarily the open-end threshold in those provisions to 500 lines of credit for calendar years 2018 and 2019.[98] In the May 2019 Proposal, the Bureau proposed to extend to January 1, 2022, Regulation C's current temporary open-end threshold for institutional and transactional coverage of 500 open-end lines of credit and then to set the threshold at 200 open-end lines of credit upon the expiration of the proposed extension of the temporary threshold. Comments regarding the proposed temporary adjustment to the open-end threshold are discussed in the section-by-section analysis of § 1003.2(g)(1)(v)(B).

For the reasons discussed in the section-by-section analysis of § 1003.2(g)(1)(v)(B), the Bureau is now extending to January 1, 2022, Regulation C's 500 open-end line of credit threshold. As discussed in part III above, the Bureau has reopened the comment period relating to the May 2019 Proposal's proposed amendments to the permanent thresholds for closed-end mortgage loans and open-end lines of credit.[99] After reviewing the comments received during the reopened comment period, the Bureau intends to issue a final rule in 2020 addressing the permanent threshold for open-end lines of credit that would take effect on January 1, 2022. To align the two-year extension of the temporary open-end threshold for institutional coverage in § 1003.2(g) with the timeframe for the transactional coverage threshold, the Bureau is also extending the temporary open-end threshold for transactional coverage in § 1003.3(c)(12) and comments 3(c)(12)–1 and –2 to 500 for calendar years 2020 and 2021, as proposed.

3(d) Partially Exempt Transactions

Section 104(a) of the EGRRCPA amended HMDA section 304(i) by adding partial exemptions from HMDA's requirements that apply to certain transactions of eligible insured depository institutions and insured credit unions. In the 2018 HMDA Rule, the Bureau implemented and clarified HMDA section 304(i) by addressing a set of interpretive and procedural questions relating to the partial exemptions. The Bureau proposed in § 1003.3(d) and related commentary to incorporate the partial exemptions and the interpretations and procedures from the 2018 HMDA Rule into Regulation C and further implement HMDA section 304(i) by addressing additional questions that have arisen with respect to the partial exemptions.[100] For the reasons stated below, the Bureau is now finalizing the proposed amendments relating to partial exemptions in § 1003.3(d) and its associated commentary as proposed.

Although some commenters expressed general opposition to the May 2019 Proposal in its entirety, there were no specific concerns articulated in the comments regarding the regulation text and commentary that the Bureau proposed to implement EGRRCPA. Commenters that discussed the proposed amendments relating to EGRRCPA generally expressed support for the Bureau's implementation of section 104(a) of the EGRRCPA. A few commenters specifically expressed support for the Bureau's interpretation on issues related to partial exemptions after a merger or acquisition and for the guidance related to determining loans and lines of credit that would be considered originations and counted towards the thresholds for partial exemptions. Many industry commenters stated that they appreciated the Bureau quickly implementing the provisions of the EGRRCPA and did not suggest any changes to the proposed regulation text and commentary relating to the partial exemptions. A group of 148 national and local organizations also expressed their support for the Bureau's proposed commentary clarifying that a financial institution that is not itself an insured credit union or an insured depository institution is not eligible for a partial exemption even if it is an affiliate of an insured credit union or an insured depository institution.[101]

Section 1003.3(d)(1) sets forth definitions relating to the partial exemptions, including a definition of optional data that delineates which data points are covered by the partial exemptions. Section 1003.3(d)(2) and (3) provides the general tests for when the partial exemptions apply for closed-end mortgage loans and open-end lines of credit, respectively. Section 1003.3(d)(4) addresses voluntary reporting of data that are covered by a partial exemption for a partially exempt transaction. Section 1003.3(d)(5) relates to the non-universal loan identifier that financial institutions must report for a partially exempt transaction if a ULI is not provided. Section 1003.3(d)(6) implements the statutory exception to the partial exemptions for insured depository institutions with certain less than satisfactory examination histories under the CRA. Each of these paragraphs and related commentary are discussed in more detail below.

The loan thresholds added by the EGRRCPA to HMDA section 304(i) resemble in many respects the loan thresholds that determine institutional and transactional coverage in Regulation C. For example, both sets of thresholds relate to originations (rather than applications or purchases) and apply separately to closed-end mortgage loans and open-end lines of credit. In light of these similarities, the Bureau has used the institutional and transactional coverage thresholds in existing Regulation C as a model in interpreting certain aspects of the partial exemption thresholds. Because the Bureau recognizes that there are advantages to industry stakeholders and others from using consistent language to describe similar requirements, the final rule (like

[97] 82 FR 43088, 43102 (Sept. 13, 2017).

[98] *Id.* at 43095.

[99] 84 FR 37804 (Aug. 2, 2019).

[100] This final rule includes related amendments in § 1003.4 and its commentary referencing § 1003.3(d) that are discussed in the section-by-section analysis of § 1003.4. The Filing Instructions Guide for HMDA Data Collected in 2020 (2020 FIG) provides guidance to financial institutions on how to indicate in their HMDA submissions if they are invoking a partial exemption. *See* Fed. Fin. Insts. Examination Council (FFIEC), ''Filing Instructions Guide for HMDA Data Collected in 2020'' (Sept. 2019), *https://s3.amazonaws.com/cfpb-hmda-public/prod/help/2020-hmda-fig.pdf.*

[101] These groups also stated in their comment letter that the threshold calculations for determining whether an institution reports HMDA data should be applied at the holding company level. This issue is outside the scope of the Bureau's proposal.

the proposal) uses language that parallels language in existing Regulation C wherever feasible.

Comments 3(d)–1 through –5 address certain issues relating to the partial exemptions that the 2018 HMDA Rule does not specifically discuss. Comments 3(d)–1 through –3 explain how to determine whether a partial exemption applies to a transaction after a merger or acquisition. Comment 3(d)–1 describes the application of the partial exemption thresholds to a surviving or newly formed institution. Comment 3(d)–2 describes how CRA examination history is handled in the event of a merger or acquisition for purposes of § 1003.3(d)(6), which implements the exception to the partial exemptions for certain less than satisfactory CRA examination histories in HMDA section 304(i)(3). Comment 3(d)–3 describes the applicability of partial exemptions during the calendar year of a merger or acquisition and provides various examples. These comments are modeled closely on existing comments 2(g)–3 and –4, which explain how to determine whether an institution satisfies the definition of financial institution in § 1003.2(g) after a merger or acquisition.

Comment 3(d)–4 relates to whether activities with respect to a particular closed-end mortgage loan or open-end line of credit constitute an origination for purposes of the partial exemption loan thresholds. Given the similarities between the coverage thresholds currently in Regulation C [102] and the partial exemption thresholds under the EGRRCPA, the Bureau believes that the same guidance for determining whether activities constitute an origination that applies for purposes of the coverage thresholds in Regulation C's definition of financial institution should apply with respect to the partial exemption thresholds. Consistent with the approach taken in existing comment 2(g)–5 for the definition of financial institution, comment 3(d)–4 refers to comments 4(a)–2 through –4 for guidance on this issue in the context of the partial exemptions.

Comment 3(d)–5 addresses questions about whether a financial institution that does not itself meet the requirements for a partial exemption can claim an exemption if an affiliate or parent company meets the requirements. It clarifies that a financial institution that is not itself an insured credit union or an insured depository institution[103] is not eligible for a partial exemption under § 1003.3(d)(2) and (3), even if it is owned by or affiliated with an insured credit union or an insured depository institution. This approach is consistent with HMDA section 304(i)(1) and (2), which by its terms applies ''[w]ith respect to an insured depository institution or insured credit union'' as defined in HMDA section 304(o). To clarify further the EGRRCPA's partial exemptions, the comment also provides an example describing when a subsidiary of an insured credit union or insured depository institution could claim a partial exemption under § 1003.3(d) for its closed-end mortgage loans.

3(d)(1)

Proposed § 1003.3(d)(1) and proposed comment 3(d)(1)(iii)–1 define terms related to the partial exemptions for purposes of proposed § 1003.3(d). As mentioned above, commenters that discussed the proposed amendments relating to the EGRRCPA generally expressed support for the Bureau's implementation of section 104(a) of the EGRRCPA and did not suggest any changes to the proposed regulation text or commentary. For the reasons discussed below, the Bureau is adopting § 1003.3(d)(1) and comment 3(d)(1)(iii)–1 as proposed.

Section 1003.3(d)(1)(i) defines the term ''insured credit union'' to mean an insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752), and § 1003.3(d)(1)(ii) defines the term ''insured depository institution'' to mean an insured depository institution as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813). These definitions are consistent with the way HMDA section 304(o) defines the two terms for purposes of HMDA section 304.

Section 1003.3(d)(1)(iii) and comment 3(d)(1)(iii)–1 define the term ''optional data'' for purposes of § 1003.3(d). For the reasons discussed below, § 1003.3(d)(1)(iii) generally defines optional data as the data identified in § 1003.4(a)(1)(i), (a)(9)(i), and (a)(12), (15) through (30), and (32) through (38). Comment 3(d)(1)(iii)–1 explains that the definition of optional data in § 1003.3(d)(1)(iii) identifies the data that are covered by the partial exemptions for certain transactions of insured depository institutions and insured credit unions under § 1003.3(d). It also clarifies that, if a transaction is not partially exempt under § 1003.3(d)(2) or (3), a financial institution must collect, record, and report optional data as otherwise required under part 1003.

The EGRRCPA added partial exemptions to HMDA section 304(i), and the definition of optional data in § 1003.3(d)(1)(iii) specifies the data points covered by the partial exemptions. As the 2018 HMDA Rule explains, if a transaction qualifies for one of the EGRRCPA's partial exemptions, HMDA section 304(i) provides that the requirements of HMDA section 304(b)(5) and (6) shall not apply. In the 2018 HMDA Rule, the Bureau interpreted the requirements of HMDA section 304(b)(5) and (6) to include the 26 data points listed in Table 1 in the 2018 HMDA Rule, which are found in § 1003.4(a)(1)(i), (a)(9)(i), and (a)(12), (15) through (30), and (32) through (38).

The Dodd-Frank Act added HMDA section 304(b)(5) and (6), which requires reporting of certain data points and provides the Bureau discretion to require additional data points.[104] In the 2015 HMDA Rule, the Bureau

[102] *See* 12 CFR 1003.2(g)(1)(v) and (g)(2)(ii) and 1003.3(c)(11) and (12).

[103] For purposes of the comment, insured credit union and insured depository institution are defined in § 1003.3(d)(1)(i) and (ii), which, as explained below, mirrors how those terms are defined in HMDA section 304(o).

[104] HMDA section 304(b)(5) requires disclosure of the number and dollar amount of mortgage loans grouped according to measurements of:

• The total points and fees payable at origination in connection with the mortgage as determined by the Bureau;

• The difference between the APR associated with the loan and a benchmark rate or rates for all loans;

• The term in months of any prepayment penalty or other fee or charge payable on repayment of some portion of principal or the entire principal in advance of scheduled payments; and

• Such other information as the Bureau may require.

HMDA section 304(b)(6) requires disclosure of the number and dollar amount of mortgage loans and completed applications grouped according to measurements of:

• The value of the real property pledged or proposed to be pledged as collateral;

• The actual or proposed term in months of any introductory period after which the rate of interest may change;

• The presence of contractual terms or proposed contractual terms that would allow the mortgagor or applicant to make payments other than fully amortizing payments during any portion of the loan term;

• The actual or proposed term in months of the mortgage loan;

• The channel through which application was made;

• As the Bureau may determine to be appropriate, a unique identifier that identifies the loan originator as set forth in section 5102 of this title;

• As the Bureau may determine to be appropriate, a universal loan identifier;

• As the Bureau may determine to be appropriate, the parcel number that corresponds to the real property pledged or proposed to be pledged as collateral;

• The credit score of mortgage applicants and mortgagors, in such form as the Bureau may prescribe; and

• Such other information as the Bureau may require.

implemented the new data points specified in the Dodd-Frank Act (including those added in HMDA section 304(b)(5) and (6)), added a number of additional data points pursuant to the Bureau's discretionary authority, and made revisions to certain pre-existing data points to clarify their requirements, provide greater specificity in reporting, and align certain data points more closely with industry data standards.

As explained in the 2018 HMDA Rule, the Bureau interprets the requirements of HMDA section 304(b)(5) and (6) for purposes of HMDA section 304(i) to include the 12 data points that the Bureau added to Regulation C in the 2015 HMDA Rule to implement data points specifically identified in HMDA section 304(b)(5)(A) through (C) or (b)(6)(A) through (I), which are the following: ULI; property address; rate spread; credit score; total loan costs or total points and fees; prepayment penalty term; loan term; introductory rate period; non-amortizing features; property value; application channel; and mortgage loan originator identifier.[105] As the 2018 HMDA Rule explains, the Bureau also interprets the requirements of HMDA section 304(b)(5) and (6) to include the 14 data points that were not found in Regulation C prior to the Dodd-Frank Act and that the Bureau required in the 2015 HMDA Rule citing its discretionary authority under HMDA section 304(b)(5)(D) and (b)(6)(J). Specifically, these data points are the following: The total origination charges associated with the loan; the total points paid to the lender to reduce the interest rate of the loan (discount points); the amount of lender credits; the interest rate applicable at closing or account opening; the debt-to-income ratio; the ratio of the total amount of debt secured by the property to the value of the property (combined loan-to-value ratio); for transactions involving manufactured homes, whether the loan or application is or would have been secured by a manufactured home and land or by a manufactured home and not land (manufactured home secured property type); the land property interest for loans or applications related to manufactured housing (manufactured home land property interest); the number of individual dwellings units that are income-restricted pursuant to Federal, State, or local affordable housing programs (multifamily affordable units); information related to the automated underwriting system used in evaluating an application and the result generated by the automated underwriting system; whether the loan is a reverse mortgage; whether the loan is an open-end line of credit; whether the loan is primarily for a business or commercial purpose; and the reasons for denial of a loan application, which were optionally reported under the Board's rule but became mandatory in the 2015 HMDA Rule.[106] The 2018 HMDA Rule indicates that insured depository institutions and insured credit unions need not report these 26 data points for transactions that qualify for a partial exemption, unless otherwise required by their regulator.[107]

As the 2018 HMDA Rule explains, the Bureau interprets the requirements of HMDA section 304(b)(5) and (6) not to include four other data points that are similar or identical to data points added to Regulation C by the Board and that the Bureau re-adopted in the 2015 HMDA Rule: Lien status of the subject property; whether the loan is subject to the Home Ownership and Equity Protection Act of 1994 (HOEPA); construction method for the dwelling related to the subject property; and the total number of individual dwelling units contained in the dwelling related to the loan (number of units).[108] The 2015 HMDA Rule did not alter the pre-existing Regulation C HOEPA status and lien status data requirements.[109] Construction method and total units, together, replaced the pre-existing Regulation C property type data point; the information required by the new data points is very similar to what the Board required, but institutions now must report the precise number of units rather than categorizing dwellings into one- to four-family dwellings and multifamily dwellings.[110]

The Board adopted its versions of these data points before HMDA section 304(b)(5) and (6) was added to HMDA by the Dodd-Frank Act, pursuant to HMDA authority that pre-existed section 304(b)(5) and (6). Although the Bureau cited HMDA section 304(b)(5) and (6) as additional support for these four data points in the 2015 HMDA Rule, the Bureau relied on HMDA section 305(a), which predates the Dodd-Frank Act and independently provides legal authority for their adoption.[111] Given that these data points were not newly added by the Dodd-Frank Act or the Bureau, the Bureau concluded in the 2018 HMDA Rule that the EGRRCPA's amendments to HMDA section 304 do not affect them.[112] A large number of consumer advocacy and community development groups expressed their agreement with the Bureau that these data points were not affected by the partial exemptions under the EGRRCPA.

The requirements of HMDA section 304(b)(5) and (6), and thus the partial exemptions, also do not include 17 other data points included in the 2015 HMDA Rule that are similar or identical to pre-existing Regulation C data points established by the Board and that were not required by HMDA section 304(b)(5) and (6) or promulgated by the Bureau using discretionary authority under HMDA section 304(b)(5)(D) and (b)(6)(J). These are: The Legal Entity Identifier (which replaced the pre-existing respondent identifier); application date; loan type; loan purpose; preapproval; occupancy type; loan amount; action taken; action taken date; State; county; census tract; ethnicity; race; sex; income; and type of purchaser.[113] Additionally, the requirements of HMDA section 304(b)(5) and (6), and thus the partial exemptions, do not include age because the Dodd-Frank Act added that requirement instead to HMDA section 304(b)(4).[114]

Consistent with the scope of the new partial exemptions as explained in the 2018 HMDA Rule, the general definition of optional data in § 1003.3(d)(1)(iii) encompasses 26 of the 48 data points currently set forth in Regulation C.

[105] 12 CFR 1003.4(a)(1)(i), (a)(9)(i), and (a)(12), (15), (17), (22), (25) through (28), and (33) and (34).

[106] 12 CFR 1003.4(a)(16), (18) through (21), (23) and (24), (29) and (30), (32), and (35) through (38).

[107] Financial institutions regulated by the OCC are required to report reasons for denial on their HMDA loan/application registers pursuant to 12 CFR 27.3(a)(1)(i) and 128.6. Similarly, pursuant to regulations transferred from the Office of Thrift Supervision, certain financial institutions supervised by the FDIC are required to report reasons for denial on their HMDA loan/application registers. 12 CFR 390.147.

[108] 12 CFR 1003.4(a)(5), (13) and (14), and (31).

[109] The 2015 HMDA Rule extended the requirement to report lien status to purchased loans and no longer requires reporting of information about unsecured loans. 80 FR 66128, 66201 (Oct. 28, 2015).

[110] Prior to 2018, Regulation C required reporting of property type as one- to four-family dwelling (other than manufactured housing), manufactured housing, or multifamily dwelling, whereas the current rule requires reporting of whether the dwelling is site-built or a manufactured home, together with the number of individual dwelling units.

[111] 80 FR 66128, 66180–81, 66199–201, 66227 (Oct. 28, 2015).

[112] This interpretation is consistent with the EGRRCPA's legislative history, which suggests that Congress was focused on relieving regulatory burden associated with the Dodd-Frank Act. *See, e.g.,* 164 Cong. Rec. S1423–24 (daily ed. Mar. 7, 2018) (statement of Sen. Crapo), S1529–30 (statement of Sen. McConnell), S1532–33 (statement of Sen. Cornyn), S1537–39 (statement of Sen. Lankford), S1619–20 (statement of Sen. Cornyn).

[113] 12 CFR 1003.4(a)(1)(ii), (a)(2) through (4) and (6) through (8), (a)(9)(ii), and (a)(10) and (11) and 1003.5(a)(3).

[114] Dodd-Frank Act section 1094(3)(A)(i).

For ease of reference throughout § 1003.3(d), § 1003.3(d)(1)(iv) defines partially exempt transaction as a covered loan or application that is partially exempt under § 1003.3(d)(2) or (3).

3(d)(2)

HMDA section 304(i)(1) provides that the requirements of HMDA section 304(b)(5) and (6) shall not apply with respect to closed-end mortgage loans of an insured depository institution or insured credit union if it originated fewer than 500 closed-end mortgage loans in each of the two preceding calendar years. The Bureau proposed § 1003.3(d)(2) and comment 3(d)(2)–1 to implement this provision. As mentioned above, commenters that discussed the proposed amendments relating to EGRRCPA generally expressed support for the Bureau's implementation of section 104(a) of the EGRRCPA and did not suggest any changes to the proposed regulation text or commentary. As explained below, the Bureau is finalizing § 1003.3(d)(2) and comment 3(d)(2)–1 as proposed.

Section 1003.3(d)(2) states that, except as provided in § 1003.3(d)(6), an insured depository institution or insured credit union that, in each of the two preceding calendar years, originated fewer than 500 closed-end mortgage loans that are not excluded from part 1003 pursuant to § 1003.3(c)(1) through (10) or (c)(13) is not required to collect, record, or report optional data as defined in § 1003.3(d)(1)(iii) for applications for closed-end mortgage loans that it receives, closed-end mortgage loans that it originates, and closed-end mortgage loans that it purchases.

The EGRRCPA and HMDA do not define the term ''closed-end mortgage loan'' for purposes of HMDA section 304(i). They also do not specify whether the term includes loans that would otherwise not be subject to HMDA reporting under Regulation C, such as loans used primarily for agricultural purposes.[115] The Bureau explained in the 2018 HMDA Rule that the term ''closed-end mortgage loan'' as used in HMDA section 304(i) is best interpreted to include only those closed-end mortgage loans that would otherwise be reportable under HMDA. This interpretation is consistent with how loans are counted for purposes of the thresholds in Regulation C's existing institutional and transactional coverage provisions, which are independent of the new partial exemptions and unaffected by the EGRRCPA.[116] Accordingly, in the 2018 HMDA Rule, the Bureau interpreted the term ''closed-end mortgage loan'' to include any closed-end mortgage loan as defined in § 1003.2(d) that is not excluded from Regulation C pursuant to § 1003.3(c)(1) through (10) or (c)(13). Section 1003.3(d)(2) incorporates that interpretation into Regulation C.

Comment 3(d)(2)–1 provides an illustrative example of how the closed-end partial exemption threshold works. For the reasons stated in the section-by-section analysis of § 1003.3(d) above, comment 3(d)(2)–1 also provides a cross-reference to comments 4(a)–2 through –4 for guidance about the activities that constitute an origination.

3(d)(3)

HMDA section 304(i)(2) provides that the requirements of HMDA section 304(b)(5) and (6) shall not apply with respect to open-end lines of credit of an insured depository institution or insured credit union if it originated fewer than 500 open-end lines of credit in each of the two preceding calendar years. The Bureau proposed § 1003.3(d)(3) and comment 3(d)(3)–1 to implement this provision. As mentioned above, commenters that discussed the proposed amendments relating to EGRRCPA generally expressed support for the Bureau's implementation of section 104(a) of the EGRRCPA and did not suggest any changes to the regulation text or commentary. The Bureau is finalizing § 1003.3(d)(3) and comment 3(d)(3)–1 as proposed.

Section 1003.3(d)(3) provides that, except as provided in § 1003.3(d)(6), an insured depository institution or insured credit union that, in each of the two preceding calendar years, originated fewer than 500 open-end lines of credit that are not excluded from part 1003 pursuant to § 1003.3(c)(1) through (10) is not required to collect, record, report, or disclose optional data as defined in § 1003.3(d)(1)(iii) for applications for open-end lines of credit that it receives, open-end lines of credit that it originates, and open-end lines of credit that it purchases.

The EGRRCPA and HMDA do not define the term ''open-end line of credit'' for purposes of HMDA section 304(i). They also do not specify whether the term includes lines of credit that would otherwise not be subject to HMDA reporting under Regulation C, such as loans used primarily for agricultural purposes.[117] The Bureau explained in the 2018 HMDA Rule its view that the term ''open-end line of credit'' as used in HMDA section 304(i) is best interpreted to include only those open-end lines of credit that would otherwise be reportable under HMDA. This interpretation is consistent with how lines of credit are counted for purposes of the thresholds in Regulation C's existing institutional and transactional coverage provisions, which are independent of the new partial exemptions and unaffected by the EGRRCPA. Accordingly, in the 2018 HMDA Rule, the Bureau interpreted the term ''open-end line of credit'' to include any open-end line of credit as defined in § 1003.2(o) that is not excluded from Regulation C pursuant to § 1003.3(c)(1) through (10). Section 1003.3(d)(3) incorporates that interpretation into Regulation C.

Comment 3(d)(3)–1 provides a cross-reference to § 1003.3(c)(12) and comments 3(c)(12)–1 and –2, which provide an exclusion for certain open-end lines of credit from Regulation C and permit voluntary reporting of such transactions under certain circumstances. While the temporary threshold of 500 open-end lines of credit is in place for institutional and transactional coverage, all of the open-end lines of credit that are covered by the partial exemption for open-end lines of credit in HMDA section 304(i)(2) are completely excluded from the requirements of part 1003 under current §§ 1003.2(g)(1)(v) and 1003.3(c)(12). For the reasons stated in the section-by-section analysis of § 1003.3(d) above, comment 3(d)(3)–1 also provides a cross-reference to comments 4(a)–2 through –4 for guidance about the activities that constitute an origination.

3(d)(4)

Some data points required under Regulation C are reported using multiple data fields, such as the property address data point, which

[115] 12 CFR 1003.3(c)(9).

[116] As discussed above in the section-by-section analysis of §§ 1003.2(g) and 1003.3(c), the current definition of ''depository financial institution'' in § 1003.2(g)(1)(v) is limited to institutions that either (1) originated in each of the two preceding calendar years at least 25 closed-end mortgage loans that are not excluded from Regulation C pursuant to § 1003.3(c)(1) through (10) or (c)(13); or (2) originated in each of the two preceding calendar years at least 500 open-end lines of credit that are not excluded from Regulation C pursuant to § 1003.3(c)(1) through (10). *See also* 12 CFR 1003.3(c)(11), (12) (excluding closed-end mortgage loans from the requirements of Regulation C if the financial institution originated fewer than 25 closed-end mortgage loans in either of the two preceding calendar years, and excluding open-end lines of credit from the requirements of Regulation C if the financial institution originated fewer than 500 open-end lines of credit in either of the two preceding calendar years). The threshold of 500 open-end lines of credit for institutional and transactional coverage in Regulation C is temporary.

[117] *See* 12 CFR 1003.3(c)(9).

consists of street address, city, State, and Zip Code data fields. The 2018 HMDA Rule provides that insured depository institutions and insured credit unions covered by a partial exemption have the option of reporting exempt data fields as long as they report all data fields within any exempt data point for which they report data. Proposed § 1003.3(d)(4) and proposed comments 3(d)(4)–1 to –3 and 3(d)(4)(i)–1 would incorporate this aspect of the 2018 HMDA Rule into Regulation C and provide additional clarity regarding voluntary reporting of the property address data point. As mentioned above, commenters that discussed the proposed amendments relating to EGRRCPA generally expressed support for the Bureau's implementation of section 104(a) of the EGRRCPA and did not suggest any changes. For the reasons explained below, the Bureau is finalizing § 1003.3(d)(4) and comments 3(d)(4)–1 and 3(d)(4)(i)–1 as proposed.

As the 2018 HMDA Rule explains, whether a partial exemption applies to an institution's lending activity for a particular calendar year depends on an institution's origination activity in each of the preceding two years. In some cases, coverage therefore cannot be determined until just before data collection must begin for a calendar year. For example, whether a partial exemption applies to closed-end mortgage loans for which final action is taken in 2020 depends on the number of closed-end mortgage loans originated by the insured depository institution or insured credit union in 2018 and 2019. Thus, an insured depository institution or insured credit union might not know until the end of 2019 what information it needs to collect in 2020 and report in 2021. Some insured depository institutions and insured credit unions eligible for a partial exemption under the EGRRCPA may therefore find it less burdensome to report all of the data, including the exempt data points, than to separate the exempt data points from the required data points and exclude the exempt data points from their submissions.[118] Even when insured depository institutions and insured credit unions have had time to adjust their systems to implement the partial exemptions, some may still find it less burdensome to report data covered by a partial exemption, especially if their loan volumes tend to fluctuate just above or below the threshold from year to year. The Bureau concluded in the 2018 HMDA Rule that section 104(a) is best interpreted as permitting optional reporting of data covered by the EGRRCPA's partial exemptions. Section 104(a) provides that certain requirements do not apply to affected institutions but does not prohibit those affected institutions from voluntarily reporting data. This interpretation is consistent not only with the statutory text but also with the apparent congressional intent to reduce burden on certain institutions. Accordingly, the Bureau interpreted the EGRRCPA in the 2018 HMDA Rule to permit insured depository institutions and insured credit unions voluntarily to report data that are covered by the partial exemptions.

Aspects of the Bureau's current HMDA platform used for receiving HMDA submissions, including edit checks[119] performed on incoming submissions, are set up with the expectation that HMDA reporters will provide data for an entire data point when data are reported for any data field within that data point. The Bureau explained in the 2018 HMDA Rule that adjusting the HMDA platform to accept submissions in which affected institutions report some, but not all, data fields in a data point covered by a partial exemption for a specific transaction would increase operational complexity and costs associated with changing the HMDA edits in the Filing Instructions Guide for HMDA Data Collected. Doing so would result in a less efficient implementation and submission process for the Bureau, HMDA reporters, their vendors, and other key stakeholders. Accordingly, the Bureau indicated in the 2018 HMDA Rule that the HMDA platform would continue to accept submissions of a data field that is covered by a partial exemption under the EGRRCPA for a specific loan or application as long as insured depository institutions and insured credit unions that choose to voluntarily report the data include all other data fields that the data point comprises.

Section 1003.3(d)(4) incorporates the voluntary reporting interpretations and procedures from the 2018 HMDA Rule into Regulation C. Since issuing the 2018 HMDA Rule, the Bureau has also received questions relating to voluntary reporting of property address under § 1003.4(a)(9)(i). The property address data point under § 1003.4(a)(9)(i) is covered by the partial exemptions and includes State as a data field, yet State is also a separate data point under § 1003.4(a)(9)(ii)(A) that is not covered by the partial exemptions. To address possible confusion, § 1003.3(d)(4) and comment 3(d)(4)(i)–1 include additional detail about voluntary reporting of property address.

Section 1003.3(d)(4) provides that a financial institution eligible for a partial exemption under § 1003.3(d)(2) or (3) may collect, record, and report optional data as defined in § 1003.3(d)(1)(iii) for a partially exempt transaction as though the institution were required to do so, provided that: (i) If the institution reports the street address, city name, or Zip Code for the property securing a covered loan, or in the case of an application, proposed to secure a covered loan pursuant to § 1003.4(a)(9)(i), it reports all data that would be required by § 1003.4(a)(9)(i) if the transaction were not partially exempt; and (ii) If the institution reports any data for the transaction pursuant to § 1003.4(a)(15), (16), (17), (27), (33), or (35), it reports all data that would be required by § 1003.4(a)(15), (16), (17), (27), (33), or (35), respectively, if the transaction were not partially exempt.

Comment 3(d)(4)–1 provides an example of voluntary reporting that is permitted under § 1003.3(d)(4). Comment 3(d)(4)–2 addresses how financial institutions may handle partially exempt transactions within the same loan/application register. It explains that a financial institution may collect, record, and report optional data for some partially exempt transactions under § 1003.3(d) in the manner specified in § 1003.3(d)(4), even if it does not collect, record, and report optional data for other partially exempt transactions under § 1003.3(d).

[118] The Bureau recognized in the 2018 HMDA Rule that this might be particularly true with respect to data submission in 2019, as collection of 2018 data was already underway when the EGRRCPA took effect, and system changes implementing the new partial exemptions may take time to complete. In the 2018 HMDA Rule, the Bureau interpreted the EGRRCPA to apply to data that are collected or reported under HMDA on or after May 24, 2018. Because data collected from January 1, 2018, to May 23, 2018, would not be reported until early 2019, the EGRRCPA relieves insured depository institutions and insured credit unions that are eligible for a partial exemption of the obligation to report certain data in 2019 that may have been collected before May 24, 2018. If optional reporting of data covered by a partial exemption were not permitted, such institutions would have had to remove exempt data previously collected before submitting their 2018 data in early 2019, a process that could have been burdensome for some institutions.

[119] The HMDA edit checks are rules to assist filers in checking the accuracy of HMDA data prior to submission. The 2020 FIG, a compendium of resources to help financial institutions file HMDA data collected in 2019 with the Bureau in 2020, explains that there are four types of edit checks: Syntactical, validity, quality, and macro quality. Table 2 (Loan/Application Register) in the 2020 FIG identifies the data fields currently associated with each data point. *See* FFIEC, ''Filing Instructions Guide for HMDA Data Collected in 2020,'' at 15–66 (Sept. 2019), *https://s3.amazonaws.com/cfpb-hmda-public/prod/help/2020-hmda-fig.pdf.*

Comment 3(d)(4)–3 addresses how to handle a transaction that is partially exempt pursuant to § 1003.3(d) and for which a particular requirement to report optional data is not applicable to the transaction. The comment explains that, in that circumstance, the insured depository institution or insured credit union complies with the particular requirement by reporting either that the transaction is exempt from the requirement or that the requirement is not applicable.[120] It also explains that an institution is considered as reporting data in a data field for purposes of § 1003.3(d)(4)(i) and (ii) if it reports not applicable for that data field for a partially exempt transaction. The comment also provides examples.

Comment 3(d)(4)(i)–1 explains that, if an institution eligible for a partial exemption under § 1003.3(d)(2) or (3) reports the street address, city name, or Zip Code for a partially exempt transaction pursuant to § 1003.4(a)(9)(i), it reports all data that would be required by § 1003.4(a)(9)(i) if the transaction were not partially exempt, including the State. The comment also explains that an insured depository institution or insured credit union that reports the State pursuant to § 1003.4(a)(9)(ii) or comment 4(a)(9)(ii)–1 for a partially exempt transaction without reporting any other data required by § 1003.4(a)(9)(i) is not required to report the street address, city name, or Zip Code pursuant to § 1003.4(a)(9)(i). The Bureau believes that this comment will help to clarify that, even though State is a property address data field under § 1003.4(a)(9)(i), reporting State does not trigger the requirement to report other property address data fields under § 1003.3(d)(4)(i), because State is also a stand-alone data point under § 1003.4(a)(9)(ii)(A) that is not covered by the partial exemptions.

3(d)(5)

Pursuant to HMDA section 304(i), insured depository institutions and insured credit unions are not required to report a ULI for partially exempt transactions.[121] To ensure that partially exempt transactions can be identified in the HMDA data, the 2018 HMDA Rule requires financial institutions to provide a non-universal loan identifier (NULI) that meets certain requirements for any partially exempt transaction for which they do not report a ULI. Proposed § 1003.3(d)(5) and proposed comments 3(d)(5)–1 and –2 would incorporate the NULI requirements from the 2018 HMDA Rule into Regulation C, with minor adjustments for clarity. As mentioned above, commenters that discussed the proposed amendments relating to EGRRCPA generally expressed support for the Bureau's implementation of section 104(a) of the EGRRCPA and did not suggest any changes. With respect to the NULI, a national trade association expressed support for the clarifications on the technical issues provided in the proposal. For the reasons provided below, the Bureau is finalizing § 1003.3(d)(5) and comments 3(d)(5)–1 and –2 as proposed.

In the 2015 HMDA Rule, the Bureau interpreted ULI as used in HMDA section 304(b)(6)(G) to mean an identifier that is unique within the industry and required that the ULI include the Legal Entity Identifier of the institution that assigned the ULI. Although the EGRRCPA exempts certain transactions from the ULI requirement, loans and applications must be identifiable in the HMDA data to ensure proper HMDA submission, processing, and compliance.[122] The EGRRCPA did not change this fundamental component of data reporting, which predates the Dodd-Frank Act's HMDA amendments and existed under Regulation C prior to the 2015 HMDA Rule. Accordingly, while insured depository institutions and insured credit unions do not have to report a ULI for a partially exempt transaction, they must continue to provide certain information so that each loan and application they report for HMDA purposes is identifiable. The ability to identify individual loans and applications is necessary to facilitate efficient and orderly submission of HMDA data and communications between the institution, the Bureau, and other applicable regulators. For example, identification of loans and applications is necessary to address problems identified in edit checks done upon submission or answer questions that arise when regulators otherwise review HMDA submissions.

To ensure the orderly administration of the HMDA program, § 1003.3(d)(5) and comments 3(d)(5)–1 and –2 incorporate the NULI requirements of the 2018 HMDA Rule into Regulation C with minor adjustments. As the 2018 HMDA Rule explains, a NULI does not need to be unique within the industry and therefore does not need to include a Legal Entity Identifier as the ULI does. A check digit is not required as part of a NULI, as it is for a ULI under § 1003.4(a)(1)(i)(C), but may be voluntarily included in a NULI provided that the NULI, including the check digit, does not exceed 22 characters. Beyond these important differences, there are a number of similarities between the requirements for the ULI and those for the NULI. To the extent that NULI requirements resemble requirements for the ULI, the Bureau has conformed § 1003.3(d)(5) and its commentary to the corresponding text of existing § 1003.4(a)(1)(i) and its commentary for ease of reference and consistency.

Section 1003.3(d)(5) provides that, if, pursuant to § 1003.3(d)(2) or (3), a financial institution does not report a ULI pursuant to § 1003.4(a)(1)(i) for an application for a covered loan that it receives, a covered loan that it originates, or a covered loan that it purchases, the financial institution shall assign and report a NULI. It further provides that, to identify the covered loan or application, the NULI must be composed of up to 22 characters, which:

- May be letters, numerals, or a combination of letters and numerals;
- Must be unique within the annual loan/application register in which the covered loan or application is included; and
- Must not include any information that could be used to directly identify the applicant or borrower.

Comment 3(d)(5)–1 explains the requirement that the NULI must be unique within the annual loan/application register in which the covered loan or application is included. Comment 3(d)(5)–2 clarifies the scope of information that could be used to directly identify the applicant or borrower for purposes of § 1003.3(d)(5)(iii), using the same language that appears in comment 4(a)(1)(i)–2 with respect to the ULI.

The final rule's requirements for the NULI are consistent with those in the 2018 HMDA Rule. However, the 2018 HMDA Rule states that the NULI must be ''unique within the insured depository institution or credit union,'' whereas § 1003.3(d)(5)(ii) states that the NULI must be ''unique within the annual loan/application register in which the covered loan or application is included.'' This adjustment and similar adjustments that appear in comment 3(d)(5)–1 clarify that the NULI must be unique within a financial institution's

[120] As noted above, the 2020 FIG provides guidance to financial institutions on how to indicate in their HMDA submissions if they are invoking a partial exemption. *See supra* note 100.

[121] Prior to the passage of the Dodd-Frank Act, the Board required reporting of an identifying number for the loan or application but did not require that the identifier be universal. HMDA section 304(b)(6)(G) requires reporting of, ''as the Bureau may determine to be appropriate, a universal loan identifier.''

[122] HMDA requires that covered loans and applications be ''itemized in order to clearly and conspicuously disclose'' the applicable data for each loan or application. 12 U.S.C. 2803(a)(2).

yearly HMDA submission but the NULI does not need to be unique across reporting years. For the same reason, the final rule does not incorporate the portion of the 2018 HMDA Rule stating that a financial institution may not use a NULI previously reported if the institution reinstates or reconsiders an application that was reported in a prior calendar year.[123] Thus, the final rule allows a financial institution to use the same NULI for a partially exempt transaction in its 2021 loan/application register that the institution used for a different partially exempt transaction in its 2020 loan/application register. Because final action on an application may be taken in a different year than the year in which a NULI is assigned (for example, for applications received late in the year), insured depository institutions and insured credit unions may opt not to reassign NULIs that they have assigned previously to ensure all NULIs included in their annual loan/application register are unique within that annual loan/application register.

The Bureau recognizes that some insured depository institutions and insured credit unions may prefer to report a ULI for partially exempt transactions even if they are not required to do so. As explained in the 2018 HMDA Rule and in the section-by-section analysis of § 1003.3(d)(4) above and of § 1003.4(a)(1)(i) below, voluntary reporting of ULIs for partially exempt transactions is permissible under the EGRRCPA, and no NULI is required if a ULI is provided.

3(d)(6)

Notwithstanding the EGRRCPA's partial exemptions, new HMDA section 304(i)(3) provides that an insured depository institution shall comply with HMDA section 304(b)(5) and (6) if the insured depository institution has received a rating of ''needs to improve record of meeting community credit needs'' during each of its two most recent examinations or a rating of ''substantial noncompliance in meeting community credit needs'' on its most recent examination under section 807(b)(2) of the CRA. To implement this provision, proposed § 1003.3(d)(6) provided that § 1003.3(d)(2) and (3) do not apply to an insured depository institution that, as of the preceding December 31, had received a rating of ''needs to improve record of meeting community credit needs'' during each of its two most recent examinations or a rating of ''substantial noncompliance in meeting community credit needs'' on its most recent examination under section 807(b)(2) of the CRA. As mentioned above, commenters that discussed the proposed amendments relating to EGRRCPA generally expressed support for the Bureau's implementation of section 104(a) of the EGRRCPA and did not suggest any changes. For the reasons explained below, the Bureau is finalizing comment 3(d)(6)–1 as proposed.

As the Bureau explained in the 2018 HMDA Rule, the EGRRCPA does not specify the date as of which an insured depository institution's two most recent CRA examinations must be assessed for purposes of the exception in HMDA section 304(i)(3). In the 2018 HMDA Rule, the Bureau interpreted HMDA section 304(i)(3) to require that this assessment be made as of December 31 of the preceding calendar year. This timing is consistent with the timing for assessing Regulation C's asset-size threshold and requirement that a financial institution have a home or branch office located in a Metropolitan Statistical Area (MSA), which are both assessed as of the preceding December 31.[124] It also ensures that financial institutions can determine before they begin collecting information in any given calendar year whether they are eligible for a partial exemption for information collected for certain transactions in that year. Section 1003.3(d)(6) incorporates this interpretation into Regulation C.

Comment 3(d)(6)–1 explains that the preceding December 31 means the December 31 preceding the current calendar year. It includes the same example that was provided in the 2018 HMDA Rule to illustrate how the exception works, with minor wording changes for clarity.

Section 1003.4 Compilation of Reportable Data

4(a) Data Format and Itemization

Section 1003.4(a) requires financial institutions to collect specific data about covered loans, applications for covered loans, and purchases of covered loans. The EGRRCPA provides partial exemptions from this requirement for certain transactions of insured depository institutions and insured credit unions. To conform to the EGRRCPA, the Bureau proposed to amend the introductory paragraph of § 1003.4(a) to indicate that the requirement to collect the data identified in § 1003.4(a) is applicable except as specified in proposed § 1003.3(d), which would implement the new partial exemptions. The Bureau also proposed to make a similar change to comment 4(a)–1. The Bureau requested comment on these proposed amendments and the other proposed amendments to § 1003.4(a) relating to the partial exemptions that are discussed below. Commenters that discussed the proposed amendments relating to EGRRCPA generally expressed support for the Bureau's implementation of section 104(a) of the EGRRCPA and did not suggest any changes to the proposed regulation text and commentary relating to the partial exemptions.[125] For the reasons stated below, the Bureau is now finalizing the proposed amendments to § 1003.4(a) relating to the partial exemptions as proposed.[126]

4(a)(1)(i)

Section 1003.4(a)(1)(i) generally requires a financial institution to assign and report a ULI for the covered loan or application that can be used to identify and retrieve the covered loan or application file. As explained in the 2018 HMDA Rule and the section-by-section analysis of § 1003.3(d)(5) above, a financial institution is not required to assign and report a ULI for a partially exempt transaction if it instead assigns and reports a NULI. The Bureau proposed amendments to section 4(a)(1)(i) and comments 4(a)(1)(i)–3, –4, and –6 relating to the NULI. Only one commenter, a national trade association, specifically addressed the proposed amendments relating to the NULI, and it expressed support. For the reasons discussed below, the Bureau is finalizing § 1003.4(a)(1)(i) and comments 4(a)(1)(i)–3, –4, and –6 as proposed.

To incorporate the NULI into Regulation C, the final rule amends § 1003.4(a)(1)(i) to indicate that, for a partially exempt transaction under § 1003.3(d), the data collected shall include either a ULI or a NULI as described in § 1003.3(d)(5), and that a financial institution does not need to assign and report a ULI for a partially exempt transaction for which a NULI is assigned and reported under § 1003.3(d).

The final rule also amends comment 4(a)(1)(i)–3 to indicate that the requirement to report the same ULI that was previously assigned or reported for purchased covered loans does not apply if the purchase of the covered loan is a

[123] 83 FR 45325, 45330 (Sept. 7, 2018).

[124] 12 CFR 1003.2(g)(1)(i) and (ii) and (g)(2)(i); comment 2(g)–1.

[125] For a more detailed description of the comments received relating to the proposed amendments implementing the EGRRCPA, see the section-by-section analysis of § 1003.3(d) above.

[126] The final rule also includes one technical correction to the fourth sentence of comment 4(a)(8)(i)–9.

partially exempt transaction under § 1003.3(d). Because the partial exemptions are only available to insured depository institutions that are not disqualified by their CRA examination histories and insured credit unions for certain transactions as set forth in § 1003.3(d), it is possible that a financial institution's purchase of a covered loan that was partially exempt when originated would not be a partially exempt transaction and that the purchasing financial institution would therefore need to assign a ULI. Therefore, the final rule amends comment 4(a)(1)(i)–3 to clarify that a financial institution that purchases a covered loan and is ineligible for a partial exemption with respect to the purchased covered loan must assign a ULI and record and submit it in its loan/application register pursuant to § 1003.5(a)(1) if the financial institution that originated the loan did not assign a ULI. Consistent with the 2018 HMDA Rule, the final rule amends comment 4(a)(1)(i)–3 to clarify that this may occur, for example, if the loan was assigned a NULI under § 1003.3(d)(5) rather than a ULI by the loan originator.

The final rule also amends comment 4(a)(1)(i)–4 to clarify the example provided in that comment of how ULIs are assigned if a financial institution reconsiders an application that was reported in a prior calendar year. The amendments clarify that the example assumes that the financial institution reported a ULI rather than a NULI in 2020 for the initial denied application and that the financial institution then made an origination that is not partially exempt when it reconsidered in 2021 the previously denied application.

The final rule also adds a new comment 4(a)(1)(i)–6 explaining that, for a partially exempt transaction under § 1003.3(d), a financial institution may report a ULI or a NULI. The comment cross-references § 1003.3(d)(5) and comments 3(d)(5)–1 and –2 for guidance on the NULI. The Bureau believes that these changes will help clarify financial institutions' responsibilities in assigning identifiers to partially exempt transactions.

4(a)(1)(ii)

Section 1003.4(a)(1)(ii) generally requires financial institutions to collect the date the application was received or the date shown on the application form. Current comment 4(a)(1)(ii)–3 explains that, if, within the same calendar year, an applicant asks a financial institution to reinstate a counteroffer that the applicant previously did not accept (or asks the institution to reconsider an application that was denied, withdrawn, or closed for incompleteness), the institution may treat that request as the continuation of the earlier transaction using the same ULI or as a new transaction with a new ULI. The Bureau believes that it is appropriate to apply the same approach with respect to NULIs and proposed to amend comment 4(a)(1)(ii)–3 to reference both ULIs and NULIs. Only one commenter, a national trade association, specifically addressed the proposed amendments relating to the NULI, and it expressed support for the NULI modifications generally. The Bureau is finalizing comment 4(a)(1)(ii)–3 as proposed.

4(a)(9)

Section 1003.4(a)(9) generally requires a financial institution to report the property address of the location of the property securing a covered loan or, in the case of an application, proposed to secure a covered loan (property address), as well as the State, the county, and in some cases the census tract of the property if the property is located in an MSA or Metropolitan Division (MD) in which the financial institution has a home or branch office, or if the institution is subject to § 1003.4(e). Comment 4(a)(9)–2 addresses situations involving multiple properties with more than one property taken as security. The comment explains that, if an institution is required to report specific information about the property identified in § 1003.4(a)(9) by another section of Regulation C such as, for example, § 1003.4(a)(29) or (30), the institution reports the information that relates to the property identified in § 1003.4(a)(9). The Bureau proposed to amend comment 4(a)(9)–2 to clarify that, in this circumstance, if the transaction is partially exempt under § 1003.3(d) and no data are reported pursuant to § 1003.4(a)(9), the institution reports the information that relates to the property that the institution would have identified in § 1003.4(a)(9) if the transaction were not partially exempt. This would mean that, for a partially exempt transaction in which more than one property is taken as security and no data are reported under § 1003.4(a)(9), a financial institution should choose one of the properties taken as a security that contains a dwelling and provide information about that property if the institution is required to report specific information about the property identified in § 1003.4(a)(9) by one or more other sections of Regulation C. The Bureau received no comments on the proposed amendment and is finalizing comment 4(a)(9)–2 as proposed. The Bureau believes that this amendment will assist financial institutions in applying comment 4(a)(9)–2 to partially exempt transactions.

4(a)(9)(i)

Section 1003.4(a)(9)(i) generally requires a financial institution to report the property address. To implement the EGRRCPA's partial exemptions, the Bureau proposed to amend comment 4(a)(9)(i)–1 to clarify that the requirement to report property address does not apply to partially exempt transactions under § 1003.3(d). The Bureau received no comments on the proposed amendment and is finalizing comment 4(a)(9)(i)–1 as proposed.

4(a)(12)

Section 1003.4(a)(12) generally requires a financial institution to report the rate spread for covered loans and applications that are approved but not accepted, and that are subject to Regulation Z, 12 CFR part 1026, other than assumptions, purchased covered loans, and reverse mortgages. To implement the EGRRCPA's partial exemptions, the Bureau proposed to amend comment 4(a)(12)–7 to provide that § 1003.4(a)(12) does not apply to transactions that are partially exempt under proposed § 1003.3(d). The Bureau received no comments on the proposed amendment and is finalizing comment 4(a)(12)–7 as proposed.

4(a)(15)

Section 1003.4(a)(15) generally requires financial institutions to report the credit score or scores relied on in making the credit decision and information about the scoring model used to generate each score. To implement the EGRRCPA's partial exemptions, the Bureau proposed to amend comment 4(a)(15)–1 to clarify that the requirement to report the credit score or scores relied on in making the credit decision and information about the scoring model used to generate each score does not apply to transactions that are partially exempt under proposed § 1003.3(d). The Bureau received no comments on the proposed amendment and is finalizing comment 4(a)(15)–1 as proposed.

4(a)(16)

Section 1003.4(a)(16) generally requires financial institutions to report the principal reason(s) for denial of an application. To implement the EGRRCPA's partial exemptions, the Bureau proposed to amend comment 4(a)(16)–4 to clarify that the requirement to report the principal reason(s) for denial of an application does not apply to transactions that are partially exempt under proposed § 1003.3(d). The Bureau received no comments on the proposed amendment and is finalizing comment 4(a)(16)–4 as proposed.

4(a)(17)

Section 1003.4(a)(17) generally requires that, for covered loans subject to Regulation Z § 1026.43(c), a financial institution shall report the amount of total loan costs if a disclosure is provided for the covered loan pursuant to Regulation Z § 1026.19(f), or the total points and fees charged in connection with the covered loan if the covered loan is not subject to the disclosure requirements in Regulation Z § 1026.19(f). To implement the EGRRCPA's partial exemptions, the Bureau proposed to amend comments 4(a)(17)(i)–1 and (ii)–1 to clarify that the requirement to report total loan costs or total points and fees, as applicable, does not apply to transactions that are partially exempt under proposed § 1003.3(d). The Bureau received no comments on the proposed amendments and is finalizing comments 4(a)(17)(i)–1 and (ii)–1 as proposed.

4(a)(18)

Section 1003.4(a)(18) generally requires financial institutions to report, for covered loans subject to the disclosure requirements in Regulation Z § 1026.19(f), the total of all borrower-paid origination charges. To implement the EGRRCPA's partial exemptions, the Bureau proposed to amend comment 4(a)(18)–1 to clarify that the requirement to report borrower-paid origination charges does not apply to transactions that are partially exempt under proposed § 1003.3(d). The Bureau received no comments on the proposed amendment and is finalizing comment 4(a)(18)–1 as proposed.

4(a)(19)

Section 1003.4(a)(19) generally requires financial institutions to report, for covered loans subject to the disclosure requirements in Regulation Z § 1026.19(f), the points paid to the creditor to reduce the interest rate. To implement the EGRRCPA's partial exemptions, the Bureau proposed to amend comment 4(a)(19)–1 to clarify that the requirement to report discount points does not apply to transactions that are partially exempt under proposed § 1003.3(d). The Bureau received no comments on the proposed amendment and is finalizing comment 4(a)(19)–1 as proposed.

4(a)(20)

Section 1003.4(a)(20) generally requires financial institutions to report, for covered loans subject to the disclosure requirements in Regulation Z § 1026.19(f), the amount of lender credits. To implement the EGRRCPA's partial exemptions, the Bureau proposed to amend comment 4(a)(20)–1 to clarify that the requirement to report lender credits does not apply to transactions that are partially exempt under proposed § 1003.3(d). The Bureau received no comments on the proposed amendment and is finalizing comment 4(a)(20)–1 as proposed.

4(a)(21)

Section 1003.4(a)(21) generally requires financial institutions to report the interest rate applicable to the approved application or to the covered loan at closing or account opening. To implement the EGRRCPA's partial exemptions, the Bureau proposed to amend comment 4(a)(21)–1 to clarify that the requirement to report interest rate does not apply to transactions that are partially exempt under proposed § 1003.3(d). The Bureau received no comments on the proposed amendment and is finalizing comment 4(a)(21)–1 as proposed.

4(a)(22)

Section 1003.4(a)(22) generally requires financial institutions to report the term in months of any prepayment penalty for covered loans or applications subject to Regulation Z, 12 CFR part 1026. To implement the EGRRCPA's partial exemptions, the Bureau proposed to amend comment 4(a)(22)–1 to clarify that the requirement to report the term of any prepayment penalty does not apply to transactions that are partially exempt under proposed § 1003.3(d). The Bureau received no comments on the proposed amendment and is finalizing comment 4(a)(22)–1 as proposed.

4(a)(23)

Section 1003.4(a)(23) generally requires financial institutions to report the ratio of the applicant's or borrower's total monthly debt to the total monthly income relied on in making the credit decision (debt-to-income ratio). To implement the EGRRCPA's partial exemptions, the Bureau proposed to amend comment 4(a)(23)–1 to clarify that the requirement to report the debt-to-income ratio does not apply to transactions that are partially exempt under proposed § 1003.3(d). The Bureau received no comments on the proposed amendment and is finalizing comment 4(a)(23)–1 as proposed.

4(a)(24)

Section 1003.4(a)(24) generally requires financial institutions to report the ratio of the total amount of debt secured by the property to the value of the property relied on in making the credit decision (combined loan-to-value ratio). To implement the EGRRCPA's partial exemptions, the Bureau proposed to amend comment 4(a)(24)–1 to clarify that the requirement to report the combined loan-to-value ratio does not apply to transactions that are partially exempt under proposed § 1003.3(d). The Bureau received no comments on the proposed amendment and is finalizing comment 4(a)(24)–1 as proposed.

4(a)(25)

Section 1003.4(a)(25) generally requires financial institutions to report the scheduled number of months after which the legal obligation will mature or terminate or would have matured or terminated (loan term). To implement the EGRRCPA's partial exemptions, the Bureau proposed to amend comment 4(a)(25)–5 to clarify that the requirement to report loan term does not apply to transactions that are partially exempt under proposed § 1003.3(d). The Bureau received no comments on the proposed amendment and is finalizing comment 4(a)(25)–5 as proposed.

4(a)(26)

Section 1003.4(a)(26) generally requires financial institutions to report the number of months, or proposed number of months in the case of an application, from the closing or account opening until the first date the interest rate may change. To implement the EGRRCPA's partial exemptions, the Bureau proposed to amend comment 4(a)(26)–1 to clarify that the requirement to report the number of months, or proposed number of months in the case of an application, from closing or account opening until the first date the interest rate may change does not apply to transactions that are partially exempt under proposed § 1003.3(d). The Bureau received no comments on the proposed amendment and is finalizing comment 4(a)(26)–1 as proposed.

4(a)(27)

Section 1003.4(a)(27) generally requires financial institutions to report contractual features that would allow payments other than fully amortizing payments. To implement the EGRRCPA's partial exemptions, the Bureau proposed to amend comment 4(a)(27)–1 to clarify that the requirement to report contractual features that would allow payments other than fully amortizing payments does not apply to transactions that are partially exempt under proposed § 1003.3(d). The Bureau received no comments on the proposed amendment and is finalizing comment 4(a)(27)–1 as proposed.

4(a)(28)

Section 1003.4(a)(28) generally requires financial institutions to report the value of the property securing the covered loan or, in the case of an application, proposed to secure the covered loan relied on in making the credit decision. To implement the EGRRCPA's partial exemptions, the Bureau proposed to amend comment 4(a)(28)–1 to clarify that the requirement to report the property value relied on in making the credit decision does not apply to transactions that are partially exempt under proposed § 1003.3(d). The Bureau received no comments on the proposed amendment and is finalizing comment 4(a)(28)–1 as proposed.

4(a)(29)

Section 1003.4(a)(29) generally requires financial institutions to report whether a covered loan or application is or would have been secured by a manufactured home and land or by a manufactured home and not land. To implement the EGRRCPA's partial exemptions, the Bureau proposed to amend comment 4(a)(29)–4 to clarify that the requirement to report whether a covered loan or application is or would have been secured by a manufactured home and land or by a manufactured home and not land does not apply to transactions that are partially exempt under proposed § 1003.3(d). The Bureau received no comments on the proposed amendment and is finalizing comment 4(a)(29)–4 as proposed.

4(a)(30)

Section 1003.4(a)(30) generally requires financial institutions to report whether the applicant or borrower owns the land on which a manufactured home is or will be located through a direct or indirect ownership interest or leases the land through a paid or unpaid leasehold interest. To implement the EGRRCPA's partial exemptions, the Bureau proposed to amend comment 4(a)(30)–6 to clarify that the requirement to report ownership or leasing information on the manufactured home land property interest does not apply to transactions that are partially exempt under proposed § 1003.3(d). The Bureau received no comments on the proposed amendment and is finalizing comment 4(a)(30)–6 as proposed.

4(a)(32)

Section 1003.4(a)(32) generally requires financial institutions to report information on the number of individual dwelling units in multifamily dwellings that are income-restricted pursuant to Federal, State, or local affordable housing programs. To implement the EGRRCPA's partial exemptions, the Bureau proposed to amend comment 4(a)(32)–6 to clarify that the requirement to report information on the number of individual dwelling units in multifamily dwellings that are income-restricted pursuant to Federal, State, or local affordable housing programs does not apply to transactions that are partially exempt under proposed § 1003.3(d). The Bureau received no comments on the proposed amendment and is finalizing comment 4(a)(32)–6 as proposed.

4(a)(33)

Section 1003.4(a)(33) generally requires financial institutions to report whether the applicant or borrower submitted the application for the covered loan directly to the financial institution and whether the obligation arising from the covered loan was, or in the case of an application, would have been initially payable to the financial institution. To implement the EGRRCPA's partial exemptions, the Bureau proposed to amend comments 4(a)(33)(i)–1 and (33)(ii)–1 to clarify that the requirement for financial institutions to report whether the applicant or borrower submitted the application for the covered loan directly to the financial institution and whether the obligation arising from the covered loan was, or in the case of an application, would have been initially payable to the financial institution, does not apply to transactions that are partially exempt under proposed § 1003.3(d). The Bureau received no comments on the proposed amendments and is finalizing comments 4(a)(33)(i)–1 and (33)(ii)–1 as proposed.

4(a)(34)

Section 1003.4(a)(34) generally requires financial institutions to report the unique identifier assigned by the Nationwide Mortgage Licensing System and Registry (NMLSR ID) for the mortgage loan originator. To implement the EGRRCPA's partial exemptions, the Bureau proposed to amend comment 4(a)(34)–1 to clarify that the requirement for financial institutions to report the NMLSR ID does not apply to transactions that are partially exempt under proposed § 1003.3(d). The Bureau received no comments on the proposed amendment and is finalizing comment 4(a)(34)–1 as proposed.

4(a)(35)

Section 1003.4(a)(35) generally requires financial institutions to report the name of the automated underwriting system (AUS) used by the financial institution to evaluate the application and the result generated by that AUS. To implement the EGRRCPA's partial exemptions, the Bureau proposed to amend comment 4(a)(35)–1 to clarify that the requirement for financial institutions to report the name of the AUS used to evaluate the application and the result generated by that AUS does not apply to transactions that are partially exempt under proposed § 1003.3(d). The Bureau received no comments on the proposed amendment and is finalizing comment 4(a)(35)–1 as proposed.

4(a)(37)

Section 1003.4(a)(37) requires financial institutions to identify whether the covered loan or the application is for an open-end line of credit. To implement the EGRRCPA's partial exemptions, the Bureau proposed to amend comment 4(a)(37)–1 to clarify that the requirement for financial institutions to identify whether the covered loan or the application is for an open-end line of credit does not apply to transactions that are partially exempt under proposed § 1003.3(d). The Bureau received no comments on the proposed amendment and is finalizing comment 4(a)(37)–1 as proposed.

4(a)(38)

Section 1003.4(a)(38) requires financial institutions to identify whether the covered loan is, or the application is for a covered loan that will be, made primarily for a business or commercial purpose. To implement the EGRRCPA's partial exemptions, the Bureau proposed to amend comment 4(a)(38)–1 to clarify that the requirement for financial institutions to identify whether the covered loan is, or the application is for a covered loan that will be, made primarily for a business or commercial purpose does not apply to transactions that are partially exempt under proposed § 1003.3(d). The Bureau received no comments on the proposed amendment and is finalizing comment 4(a)(38)–1 as proposed.

4(e) Data Reporting for Banks and Savings Associations That Are Required To Report Data on Small Business, Small Farm, and Community Development Lending Under CRA

Section 1003.4(e) provides that banks and savings associations that are required to report data on small business, small farm, and community development lending under regulations that implement the CRA shall also collect the information required by § 1003.4(a)(9) for property located outside MSAs and Metropolitan Divisions (MDs) in which the institution has a home or branch office, or outside any MSA. Section 1003.4(e) requires collection only of the information required by § 1003.4(a)(9)(ii) regarding the location of the property by State, county, and census tract because § 1003.4(a)(9)(i) itself requires collection of property address regardless of whether the property is located in an MSA or MD.[127] The Bureau proposed to amend § 1003.4(e) by changing the cross-reference from § 1003.4(a)(9) to § 1003.4(a)(9)(ii) to clarify that § 1003.4(e) only relates to the information required by § 1003.4(a)(9)(ii) without making any substantive changes. The Bureau received no comments on the proposed amendment and is finalizing § 1003.4(e) as proposed. The Bureau believes that this clarification will assist financial institutions and other stakeholders by making it clear that § 1003.4(e) does not require reporting of property address information required by § 1003.4(a)(9)(i) when a partial exemption applies.

VI. Effective Dates

The Bureau proposed that amendments to incorporate the interpretations and procedures from the 2018 HMDA Rule into Regulation C and further implement section 104(a) of the EGRRCPA would take effect on January 1, 2020. The Bureau explained in the May 2019 Proposal that this would allow stakeholders to benefit without significant delay from the additional certainty and clarity that the Regulation C amendments will provide regarding the EGRRCPA partial exemptions that are already in effect.[128] Regarding the proposed amendments to incorporate the EGRRCPA amendments into Regulation C, one State trade association expressed support for the clarifications regarding the effective date of the partial exemptions.

The Bureau proposed that the temporary threshold of 500 open-end lines of credit for institutional and transactional coverage would take effect on January 1, 2020. This effective date corresponds to the date when the initial temporary open-end coverage threshold established in the 2017 HMDA Rule is otherwise set to expire. The Bureau did not receive any comments on the proposed effective date for the temporary threshold of 500 open-end lines of credit. The Bureau is finalizing these effective dates as proposed.

VII. Dodd-Frank Act Section 1022(b) Analysis

The Bureau has considered the potential benefits, costs, and impacts of the final rule.[129] In developing the final rule, the Bureau has consulted with or offered to consult with the prudential regulators (the Board, the FDIC, the NCUA, and the OCC), the Department of Agriculture, the Department of Housing and Urban Development (HUD), the Department of Justice, the Department of the Treasury, the Department of Veterans Affairs, the Federal Housing Finance Agency, the Federal Trade Commission, and the Securities and Exchange Commission regarding, among other things, consistency with any prudential, market, or systemic objectives administered by such agencies.

As discussed in greater detail elsewhere throughout this supplementary information, in this rulemaking the Bureau is incorporating into Regulation C, which implements HMDA, the interpretations and procedures from the 2018 HMDA Rule and implementing further section 104(a) of the EGRRCPA. The Bureau is also amending Regulation C, effective January 1, 2020, to extend for a period of two additional years the current data reporting threshold of 500 open-end lines of credit.

A. Provisions To Be Analyzed

The final rule contains regulatory or commentary language (provisions). The discussion below considers the benefits, costs, and impacts of the following major provisions of the final rule to:

1. Incorporate the interpretations and procedures from the 2018 HMDA Rule into Regulation C and further implement section 104(a) of the EGRRCPA, which grants eligible financial institutions partial exemptions from HMDA's requirements for certain transactions; and

2. Extend for a period of two years, specifically calendar years 2020 and 2021, the current data reporting threshold of 500 open-end lines of credit in each of the two preceding calendar years.

With respect to each major provision, the discussion considers the benefits, costs, and impacts to consumers and covered persons. The discussion also addresses comments the Bureau received on the proposed Dodd-Frank Act section 1022(b) analysis, as well as certain other comments on the benefits or costs of the relevant provisions of the May 2019 Proposal that the Bureau is finalizing in this rule, when doing so is helpful to understanding the Dodd-Frank Act section 1022(b) analysis. Some comments that mentioned the benefits or costs of a provision of the May 2019 Proposal in the context of commenting on the merits of that provision are addressed in the relevant section-by-section analysis, above. In this respect, the Bureau's discussion under Dodd-Frank Act section 1022(b) is not limited to this discussion in part VII of the final notice.

B. Baselines for Consideration of Costs and Benefits

The Bureau has discretion in any rulemaking to choose an appropriate scope of analysis with respect to potential benefits, costs, and impacts and an appropriate baseline. The two sets of provisions included in this final rule are distinct from one another and hence the Bureau has chosen a different baseline for each of the provisions: (1) To avoid double-counting the impacts assessed for each set of provisions, and (2) to provide the clearest exposition of the effects of the Bureau's actions in this final rule and in implementing the EGRRCPA in the 2018 HMDA Rule. However, summed together, the impact estimates for the two sets of provisions as analyzed in this part form the total estimated impact for the final rule corresponding to a baseline where the 2015 HMDA Rule and the 2017 HMDA Rule were in effect prior to the EGRRCPA.

For purposes of this analysis, we refer to the first set of provisions in the final rule as those that incorporate the

[127] When the Board added § 1003.4(e) to Regulation C, the property address information that is now specified in § 1003.4(a)(9)(i) was not yet required. *See* 80 FR 66128, 66186 (Oct. 28, 2015) (noting that § 1003.4(e) predates the 2015 HMDA Rule, which added the property address requirement now in § 1003.4(a)(9)(i)).

[128] As noted, many of the amendments merely incorporate into Regulation C provisions of the EGRRCPA and the 2018 HMDA Rule that are already in effect. Compliance with such amendments prior to January 1, 2020 does not violate Regulation C.

[129] Specifically, section 1022(b)(2)(A) of the Dodd-Frank Act calls for the Bureau to consider the potential benefits and costs of a regulation to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services; the impact on depository institutions and credit unions with $10 billion or less in total assets as described in section 1026 of the Dodd-Frank Act; and the impact on consumers in rural areas.

interpretations and procedures from the 2018 HMDA Rule into Regulation C and further implement section 104(a) of the EGRRCPA, which grants eligible financial institutions partial exemptions from HMDA's requirements for certain transactions. In the analysis under section 1022(b) of the Dodd-Frank Act for the 2018 HMDA Rule, the Bureau adopted a post-statute baseline to assess the impact of the 2018 HMDA Rule because that rule merely interprets and provides guidance regarding what Congress required in section 104(a) of the EGRRCPA and provides procedures related to applying those requirements.[130] By contrast, the Bureau is using its legislative rulemaking authority to amend Regulation C to implement the statutory provisions in this rulemaking. For the consideration of benefits and costs of the first set of provisions in this final rule, the Bureau is therefore using a pre-statute baseline, *i.e.,* evaluating the benefits, costs, and impacts of the provisions implementing the EGRRCPA as compared to the state of the world prior to when the EGRRCPA took effect. The Bureau believes such a pre-statute baseline provides the public and the Bureau a more complete picture of the impacts of the EGRRCPA changes that were implemented by the Bureau's 2018 HMDA Rule and further implemented by the relevant provisions in this final rule.

For the purposes of this analysis, we refer to the second set of provisions in this final rule as those that extend for two years, until January 1, 2022, the current temporary open-end coverage threshold of 500 open-end lines of credit in each of the two preceding calendar years. In the 2017 HMDA Rule, the Bureau granted two-year temporary relief (specifically, for 2018 and 2019) for financial institutions that did not originate at least 500 open-end lines of credit in each of the two preceding calendar years. The 2017 HMDA Rule provides that, absent any future rulemaking, the open-end coverage threshold will revert to 100 open-end lines of credit, as in the 2015 HMDA Rule, starting in 2020. This final rule extends the current temporary coverage threshold of 500 open-end lines of credit in each of the two preceding calendar years for two more years (specifically, 2020 and 2021).

Meanwhile, the EGRRCPA's partial exemption for open-end lines of credit of eligible insured depository institutions and insured credit unions took effect on May 24, 2018. The temporary increase in the open-end coverage threshold adopted in the 2017 HMDA Rule would automatically expire without this current or other rulemaking effort and some insured depository institutions and insured credit unions are now eligible for a partial exemption for open-end lines of credit. Therefore, for the consideration of benefits and costs of this provision the Bureau is adopting a baseline in which the open-end coverage threshold starting in year 2020 is reset at 100 open-end lines of credit in each of the two preceding calendar years with some depository institutions and credit unions partially exempt under the EGRRCPA.

C. Coverage of the Final Rule

Both sets of provisions apply to certain financial institutions and relieve these financial institutions from HMDA's requirements for either all or certain data points regarding closed-end mortgage loans or open-end lines of credit that they originate or purchase, or for which they receive applications, as described further in each section below. In short, the implementation of the EGRRCPA would affect certain insured depository institutions and insured credit unions with origination volumes below certain thresholds, while the rest of the final rule would affect all financial institutions below certain thresholds and not just insured depository institutions and insured credit unions.

D. Basic Approach of the Bureau's Consideration of Benefits and Costs and Data Limitations

This discussion relies on data that the Bureau has obtained from industry, other regulatory agencies, and publicly available sources. However, as discussed further below, the Bureau's ability to fully quantify the potential costs, benefits, and impacts of this final rule is limited in some instances by a scarcity of necessary data.

1. Benefits to Covered Persons

This final rule relates to the financial institutions, transactions, and data points that are exempted or excluded from HMDA's reporting requirements. Both sets of provisions in this final rule are designed to reduce the regulatory burdens on covered persons while minimizing the impact on the ability of HMDA data to serve the statute's purposes. Therefore, the benefits of these provisions to covered persons are mainly the reduction of the costs to covered persons relative to the compliance costs the covered persons would have to incur under each baseline scenario.

The Bureau's 2015 HMDA Rule, as well as the 2014 proposed rule for the 2015 HMDA Rule and the material provided to the Small Business Review Panel leading to the 2015 HMDA Rule, presented a basic framework of analyzing compliance costs for HMDA reporting, including ongoing costs and one-time costs for financial institutions. Based on the Bureau's study of the HMDA compliance process and costs, with the help of additional information gathered and verified through the Small Business Review Panel process, the Bureau classified the operational activities that financial institutions use for HMDA data collection and reporting into 18 discrete compliance "tasks" which can be grouped into four "primary tasks." [131] Recognizing that the cost per loan of complying with HMDA's requirements differs by financial institution, the Bureau further identified seven key dimensions of compliance operations that were significant drivers of compliance costs, including the reporting system used, the degree of system integration, the degree of system automation, the compliance program, and the tools for geocoding, performing completeness checks, and editing. The Bureau found that financial institutions tended to have similar levels of complexity in compliance operations across all seven dimensions. For example, if a given financial institution had less system integration, then it tended to use less automation and less complex tools for geocoding. Financial institutions generally did not use less complex approaches on one dimension and more complex approaches on another. The small entity representatives validated this perspective during the Small Business Review Panel meeting convened under

[130] The Bureau has discretion in any rulemaking to choose an appropriate scope of analysis with respect to potential benefits, costs, and impacts and an appropriate baseline. In the 2018 HMDA Rule, the Bureau noted that it anticipated an upcoming notice-and-comment rulemaking and expected that the accompanying analysis under Dodd-Frank Act section 1022(b) would assess the benefits, costs, and impacts of the statute as well as the implementing regulation. 83 FR 45325, 45332 n.57 (Sept. 7, 2018).

[131] These tasks include: (1) Data collection: Transcribing data, resolving reportability questions, and transferring data to HMDA Management System (HMS); (2) Reporting and resubmission: Geocoding, standard annual edit and internal checks, researching questions, resolving question responses, checking post-submission edits, filing post-submission documents, creating modified loan/application register, distributing modified loan/application register, distributing disclosure statement, and using vendor HMS software; (3) Compliance and internal audits: Training, internal audits, and external audits; and (4) HMDA-related exams: Examination preparation and examination assistance.

the Small Business Regulatory Enforcement Fairness Act.[132]

The Bureau realizes that costs vary by institution due to many factors, such as size, operational structure, and product complexity, and that this variance exists on a continuum that is impossible to fully represent. To consider costs in a practical and meaningful way, in the 2015 HMDA Rule the Bureau adopted an approach that focused on three representative tiers of financial institutions. In particular, to capture the relationships between operational complexity and compliance cost, the Bureau used these seven dimensions to define three broadly representative financial institutions according to the overall level of complexity of their compliance operations. Tier 1 denotes a representative financial institution with the highest level of complexity, tier 2 denotes a representative financial institution with a moderate level of complexity, and tier 3 denotes a representative financial institution with the lowest level of complexity. For each tier, the Bureau developed a separate set of assumptions and cost estimates.

Table 1 below provides an overview of all three representative tiers across the seven dimensions of compliance operations: [133]

TABLE 1—TYPES OF HMDA REPORTERS [1]

	Tier 3 FIs tend to . . .	Tier 2 FIs tend to . . .	Tier 1 FIs tend to . . .
Systems	Enter data in Excel loan/application register Formatting Tool.	Use LOS and HMS; Submit data via the HMDA Platform.	Use multiple LOS, central SoR, HMS; Submit data via the HMDA Platform.
Integration	(None)	Have forward integration (LOS to HMS).	Have backward and forward integration; Integration with public HMDA APIs.
Automation	Manually enter data into loan/application register Formatting Tool; review and verify edits in the HMDA Platform.	loan/application register file produced by HMS; review edits in HMS and HMDA platform; verify edits via HMDA Platform.	loan/application register file produced by HMS; high automation compiling file and reviewing edits; verify edits via the HMDA platform.
Geocoding	Use FFIEC tool (manual)	Use batch processing	Use batch processing with multiple sources.
Completeness Checks	Check in HMDA Platform only	Use LOS, which includes completeness checks.	Use multiple stages of checks.
Edits	Use FFIEC Edits only	Use FFIEC and customized edits	Use FFIEC and customized edits run multiple times.
Compliance Program	Have a joint compliance and audit office.	Have basic internal and external accuracy audit.	Have in-depth accuracy and fair lending audit.

[1] FI is "financial institution"; LOS is "Loan Origination System"; HMS is "HMDA Data Management Software"; SoR is "System of Record."

For a representative institution in each tier, in the 2015 HMDA Rule, the Bureau produced a series of estimates of the costs of compliance, including the ongoing costs that financial institutions incurred prior to the implementation of the 2015 HMDA Rule, and the changes to the ongoing costs due to the 2015 HMDA Rule. The Bureau further provided the breakdown of the changes to the ongoing costs due to each major provision in the 2015 HMDA Rule, which includes the changes to the scope of the institutional coverage, the change to the scope of the transactional coverage, the revisions to the existing data points (as before the 2015 HMDA Rule) and the addition of new data points by the 2015 HMDA Rule.

For the impact analysis in this final rule, the Bureau is utilizing the cost estimates provided in the 2015 HMDA Rule for the representative financial institution in each of the three tiers, with some updates, mainly to reflect the inflation rate, and in the case of the set of provisions implementing the partial exemptions under the EGRRCPA, to align the partially exempt data points (and data fields used to report these data points) with the cost impact analyses discussed in the impact analyses for the 2015 HMDA Rule. The Bureau's analyses below also take into account the operational improvements that have been implemented by the Bureau regarding HMDA reporting since the issuance of the 2015 HMDA Rule. The details of such analyses are contained in the following sections addressing the two sets of provisions of this final rule.

The Bureau received a number of comments relating to the benefits to covered persons of the May 2019 Proposal, which it has considered in finalizing this rule. Many industry commenters reported that they expend substantial resources on HMDA compliance that could instead be used for other purposes or that they have structured their lines of business to ensure they are not required to report under HMDA. Some cited, for example, the burden of establishing procedures, purchasing reporting software, and training staff to comply with HMDA, and noted that compliance can be particularly difficult for smaller institutions with limited staff. A trade association commented that the Bureau's estimates do not account for the reduction in examination burdens and the resources diverted to HMDA compliance from other more productive activities. It also asserted that the Bureau's burden analysis did not properly address data security costs associated with HMDA collection and reporting. Another trade association suggested that the three-tiered approach to estimating costs does not seem to account for the unique challenges of adapting business and multifamily lending to HMDA regulations and HMDA reporting infrastructure designed with single-family consumer mortgage lending in mind.

In their comments, consumer groups, civil rights groups, and other nonprofit organizations stated that Federal agency fair lending and CRA exams will become more burdensome for Federal agencies and the HMDA-exempt lenders since the agencies will now have to ask

[132] *See* Bureau of Consumer Fin. Prot., "Final Report of the Small Business Review Panel on the CFPB's Proposals Under Consideration for the Home Mortgage Disclosure Act (HMDA) Rulemaking" 22, 37 (Apr. 24, 2014), *http://files.consumerfinance.gov/f/201407_cfpb_report_hmda_sbrefa.pdf.*

[133] The Bureau notes this description has taken into account the operational improvements the Bureau has implemented regarding HMDA reporting since issuing the 2015 HMDA Rule and differs slightly from the original taxonomy in the 2015 HMDA Rule that reflected the technology at the time of the study.

for internal data from the lenders instead of being able to use the HMDA data. They also noted that smaller-volume lenders already benefit from the EGRRCPA's partial exemptions and stated that almost all of the data that such institutions must report under HMDA would already need to be collected to comply with other statutes like the Truth in Lending Act, to sell loans to Fannie Mae or Freddie Mac, or to acquire FHA insurance for loans. A nonprofit organization that does HMDA-related research commented that it is hard to imagine that a bank would not keep an electronic record of its lending, even if it were not subject to HMDA reporting.

The Bureau has considered these comments and concludes that they do not undermine the Bureau's approach or cost parameters used in part VI of the May 2019 Proposal. For example, the activities that many industry commenters described as burdensome in their comments—including scrubbing data, training personnel, and preparing for HMDA-related examinations—are consistent with and captured by the 18 discrete compliance ''tasks'' that the Bureau identified through its study of the HMDA compliance process and costs in the 2015 HMDA rulemaking. As part of its analysis, the Bureau also recognized that costs vary by institution due to many factors, such as size, operational structure, and product complexity, and adopted a tiered framework to capture the relationships between operational complexity and compliance cost. While some products are more costly than others to report, the three-tiered framework uses representative institutions to capture this type of variability and estimate overall costs of HMDA reporting. In estimating compliance costs associated with HMDA reporting through this framework, the Bureau also recognized that much of the information required for HMDA reporting is information that financial institutions would need to collect, retain, and secure as part of their lending process, even if they were not subject to HMDA reporting. The Bureau therefore does not believe that the comments received provide a basis for departing from the approach for analyzing costs and benefits for covered persons used in part VI of the May 2019 Proposal.

The next step of the Bureau's consideration of the reduction of costs for covered persons involved aggregating the institution-level estimates of the cost reduction under each set of provisions up to the market-level. This aggregation required estimates of the total number of potentially impacted financial institutions and their total number of loan/application register records. The Bureau used a wide range of data in conducting this task, including recent HMDA data,[134] Call Reports, and Consumer Credit Panel data. These analyses were challenging, because no single data source provided complete coverage of all the financial institutions that could be impacted and because there is varying data quality among the different sources.

To perform the aggregation, the Bureau mapped the potentially impacted financial institutions to the three tiers described above. For each of the provisions analyzed, the Bureau assumed none of the changes would affect the high-complexity tier 1 reporters. The Bureau then assigned the potentially impacted financial institutions to either tier 2 or tier 3. In doing so, the Bureau relied on two constraints: (1) The estimated number of impacted institutions in tiers 2 and 3, combined, must equal the estimated number of impacted institutions for the applicable provision, and (2) the number of loan/application register records submitted annually by the impacted financial institutions in tiers 2 and 3, combined, must equal the estimated number of loan/application register records for the applicable provision. As in the 2015 HMDA Rule, the Bureau assumed for closed-end reporting that a representative low-complexity, tier 3 financial institution has 50 closed-end mortgage loan HMDA loan/application register records per year and a representative tier 2 financial institution has 1,000 closed-end mortgage loan HMDA loan/application register records per year. Similarly, the Bureau assumed for open-end reporting that a representative low-complexity, tier 3 financial institution has 150 open-end HMDA loan/application register records per year and a representative tier 2 financial institution has 1,000 open-end HMDA loan/application register records per year. Constraining the total number of impacted institutions and the number of impacted loan/application register records across tier 2 and tier 3 to the aggregate estimates thus enables the Bureau to calculate the approximate numbers of impacted institutions in tiers 2 and 3 for each set of provisions.[135]

Multiplying the impact estimates for representative financial institutions in each tier by the estimated number of impacted institutions, the Bureau arrived at the market-level estimates.

2. Costs to Covered Persons

In general, and as discussed in part VII.D.1 above, both sets of provisions in this final rule will reduce the ongoing operational costs associated with HMDA reporting for the affected covered persons. In the interim, it is possible that to adapt to the rule, covered persons may incur certain one-time costs. Such one-time costs are mostly related to training and system changes in covered persons' HMDA reporting/loan origination systems. Based on the Bureau's outreach to industry, however, the Bureau believes that such one-time costs are fairly small. Commenters did not indicate that there would be significant costs to covered persons associated with the temporary extension of the open-end coverage threshold or the manner in which the Bureau proposed to implement the EGRRCPA provisions.[136]

3. Benefits to Consumers

Having generated estimates of the changes in ongoing costs and one-time costs to covered financial institutions, the Bureau then can attempt to estimate the potential pass-through of such cost reduction from these institutions to consumers, which could benefit consumers. According to economic theory, in a perfectly competitive market where financial institutions are profit maximizers, the affected financial institutions would pass on to consumers the marginal, *i.e.,* variable, cost savings per application or origination, and absorb the one-time and increased fixed costs of complying with the rule. The Bureau estimated in the 2015 HMDA Rule the impacts on the variable costs of the representative financial institutions in each tier due to various provisions of that rule. Similarly, the

[134] The majority of the analyses in the 1022 section of the May 2019 Proposal were conducted prior to the official submission deadline of the 2018 HMDA data on March 1, 2019, and 2017 was the most recent year of HMDA data the Bureau used for the analyses presented in the May 2019 Proposal. For this part of the final rule, the Bureau has supplemented the analyses with the 2018 HMDA data as released to the public on August 30, 2019. The Bureau notes the market may fluctuate from year to year, and the Bureau's rulemaking is not geared towards such transitory changes on an annual basis but is instead based on larger trends.

[135] *See supra* note 60.

[136] On the other hand, the set of provisions extending the temporary open-end threshold of 500 for two years will delay for two additional years the one-time costs that excluded institutions would otherwise incur if the 500 open-end coverage threshold were restored to 100 open-end lines of credit in 2020 absent this final rule. Because (absent any future rulemaking adjusting the permanent threshold) this represents merely a delay and not permanent avoidance of one-time costs of starting to report open-end lines of credit, the Bureau does not analyze separately this delaying of one-time costs.

estimates of the pass-through effect from covered persons to consumers due to the provisions under this rule are based on the relevant estimates of the changes to the variable costs in the 2015 HMDA Rule with some updates. The Bureau notes that the market structure in the consumer mortgage lending markets may differ from that of a perfectly competitive market (for instance due to information asymmetry between lenders and borrowers) in which case the pass-through to the consumers would most likely be smaller than the pass-through under the perfect competition assumption.[137]

The Bureau requested additional comments on the potential pass-through from financial institutions to consumers due to the reduction in reporting costs. A trade association commented that it believed that the proposed higher thresholds will move mortgage markets to more perfect competition. It suggested that institutions that currently manage their origination volumes to stay below HMDA reporting thresholds will be incentivized to increase operations and that, by being able to offer savings on fees and pricing, and by being more competitive due to lower productions costs, smaller banks will be able to enter the mortgage market at more profitable levels. However, this comment did not provide specific estimates that the Bureau can utilize in refining the analyses.

4. Cost to Consumers

HMDA is a sunshine statute. The purposes of HMDA are to provide the public with loan data that can be used: (i) To help determine whether financial institutions are serving the housing needs of their communities; (ii) to assist public officials in distributing public-sector investment so as to attract private investment to areas where it is needed; and (iii) to assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.[138] The provisions in this final rule, as adopted, would lessen the reporting requirements for eligible financial institutions by either completely relieving them of the obligation to report all data points related to open-end lines of credit for two additional years or by implementing the partial exemptions from reporting certain data points for certain transactions for some covered persons as provided by the EGRRCPA. As a sunshine statute regarding data reporting and disclosure, most of the benefits of HMDA are realized indirectly. With less data required to be collected and reported under HMDA, the HMDA data available to serve HMDA's statutory purposes would decline.[139] However, to quantify the reduction of such benefits to consumers presents substantial challenges. The Bureau sought comment on the magnitude of the loss of HMDA benefits from these changes to the available data and/or methodologies for measuring these effects in the May 2019 Proposal.

The Bureau has received a number of comments emphasizing the loss of the HMDA benefits from decreased information lenders would report under HMDA due to the May 2019 Proposal. For example, a group of 148 local and national organizations stated that raising reporting thresholds will lead to another round of abusive and discriminatory lending similar to abuses that occurred in the years before the financial crisis. These commenters also stated that the general public, researchers, and Federal agencies will have an incomplete picture of lending trends in thousands of census tracts and neighborhoods if affected institutions no longer report HMDA data. Additionally, a State attorney general stated that the May 2019 Proposal failed to fully account for the harms that would be imposed by the proposal, including the costs to States in losing access to helpful data. However, none of these commenters provided specific quantifiable estimates of the loss of benefits from decreased information lenders would report under HMDA.

Because quantifying and monetizing benefits of HMDA to consumers would require identifying all possible uses of HMDA data, establishing causal links to the resulting public benefits, and then quantifying the magnitude of these benefits, the Bureau mostly presented qualitative analyses regarding HMDA benefits in the 2015 HMDA Rule. For instance, quantification would require measuring the impact of increased transparency on financial institution behavior, the need for public and private investment, the housing needs of communities, the number of financial institutions potentially engaging in discriminatory or predatory behavior, and the number of consumers currently being unfairly disadvantaged and the level of quantifiable damage from such disadvantage. Similarly, for the impact analyses of this final rule, the Bureau is unable to readily quantify the loss of some of the HMDA benefits to consumers with precision, both because the Bureau does not have the data to quantify all HMDA benefits and because the Bureau is not able to assess completely how this final rule will reduce those benefits.

In light of these data limitations, the discussion below generally provides a qualitative (not quantitative) consideration of the costs, *i.e.,* the potential loss of HMDA benefits to consumers from the rule.

E. Potential Benefits and Costs to Consumers and Covered Persons

1. Overall Summary

In this section, the Bureau presents a concise, high-level table summarizing the benefits and costs considered in the remainder of the discussion. This table is not intended to capture all details and nuances that are provided both in the rest of the analysis and in the section-by-section discussion above. Instead, it provides an overview of the major benefits and costs of the final rule, including the provisions to be analyzed, the baseline chosen for each set of provisions, the sub-provisions to be analyzed, the implementation dates of the sub-provisions, the annual savings on the operational costs of covered persons due to the sub-provision, the changes to the one-time costs of covered persons due to the sub-provision, and generally how the provisions in the final rule affect HMDA's benefits.

[137] The further the market moves away from a perfectly competitive market, the smaller the pass-through would be.

[138] 12 CFR 1003.1(b).

[139] The changes in this final rule generally either relieve financial institutions from their reporting requirements under Regulation C with respect to open-end lines of credit or implement the reduction in the data fields required to be reported for certain transactions of certain financial institutions as provided by the EGRRCPA. The data fields covered by the EGRRCPA include information about the type of loans and the types of borrowers applying for and being granted credit, which can help determine whether financial institutions are serving the housing needs of their communities and assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes. Similarly, extending for two years the temporary 500 open-end coverage threshold so that fewer institutions report data on open-end lines of credit would reduce the public information regarding whether financial institutions are serving the needs of their communities. To the extent that these data are used for other purposes, the loss of data could result in other costs.

TABLE 2

Provisions to be analyzed	Baseline	Sub-provision	Implementation date	Savings on annual operational costs	Changes on one time costs	Loss of data coverage
Implementation of EGRRCPA.	2015 and 2017 HMDA Rules.	Partial Exemption for Closed-end Mortages.	Effective May 24, 2018.	$8.4 M to $13.9 M	Negligible	Partial reporting of approximately 3,300 reporters with about 531,000 closed-end loans.
		Partial Exemption for Open-end Lines of Credit.	Effective, May 24, 2018 but has no impact while temporary coverage threshold of 500 is in place.	$7.4 M	Negligible	Partial reporting of approximately 600 reporters with 131,000 open-end lines of credit.
Increasing Open-end Loan Coverage Threshold.	2015 AND 2017 HMDA Rules, EGRRPCA.	Increase to 500 for 2020 and 2021.	January, 2020	$9.4 M	Negligible	Approximately 680 reporters with 177,000 open-end lines of credit excluded for 2020 and 2021.

2. Provisions To Implement the EGRRCPA

Scope of the Provisions

The final rule incorporates the 2018 HMDA Rule into Regulation C and further implements the EGRRCPA provision that adds partial exemptions from HMDA's requirements for certain insured depository institutions and insured credit unions.[140] With respect to closed-end mortgage loans, HMDA section 304(i)(1) as amended by the EGRRCPA provides that, if an insured depository institution or insured credit union[141] originated fewer than 500 closed-end mortgage loans in each of the two preceding calendar years, the insured depository institution or insured credit union is generally exempt from reporting certain data points on the closed-end mortgage loans that it would have otherwise reported under HMDA. Similarly, with respect to open-end lines of credit, HMDA section 304(i)(1) as amended by the EGRRCPA provides that, if an insured depository institution or insured credit union originated fewer than 500 open-end lines of credit in each of the two preceding calendar years, the insured depository institution or insured credit union is generally exempt from reporting certain data points on the open-end lines of credit that it would have otherwise reported under HMDA.[142]

In part VI of the May 2019 Proposal, the Bureau estimated that, under section 104(a) of the EGRRCPA, as implemented by the 2018 HMDA Rule and further implemented by the May 2019 Proposal, approximately 3,300 insured depository institutions and insured credit unions[143] are eligible for a partial exemption for their covered closed-end loans and applications, and the total number of closed-end mortgage loans originated by these partially exempt institutions is about 531,000 per year, consisting of about 56 percent of all reporting institutions, and 63 percent of all depository institutions and credit unions that reported HMDA data for 2017.

The majority of the analyses in part VI of the May 2019 Proposal were conducted prior to the official submission deadline of the 2018 HMDA data on March 1, 2019, and 2017 was the most recent year of HMDA data the Bureau used for the analyses in the May 2019 Proposal. For this final rule, the Bureau supplemented the analyses with the 2018 HMDA data, which was released to the public on August 30, 2019. The 2018 HMDA data reflects that about 2,200 reporters used a partial exemption for closed-end mortgage loans or open-end lines of credit and about 425,000 loan/application register records, including 298,000 originations, have one or more data points reported as exempt. It is possible that some of reporters, even though eligible for a partial exemption under the EGRRCPA, chose to report in full the data points that are exempt under the EGRRCPA. This may particularly be the case because the EGRRCPA partial exemptions only went into effect in May 2018, and uncertainty or administrative burden around midyear implementation may have reduced participation in the optional partial exemption. At any rate, the Bureau continues to believe that its initial estimates provided in part VI of the May 2019 Proposal were and are reasonable. Nevertheless, out of an abundance of caution, the Bureau is providing in this analysis two separate

[140] The Bureau also considered as an alternative not incorporating the interpretations and procedures from the 2018 HMDA Rule into Regulation C and not implementing further section 104(a) of the EGRRCPA. The Bureau believes that this alternative approach would result in increased costs to covered persons due to a lack of clarity regarding the relevant statutory and regulatory requirements and how they interrelate. The Bureau does not believe that the alternative approach would provide any significant benefits for covered persons or consumers.

[141] For purposes of HMDA section 104, the EGRRCPA provides that the term ''insured credit union'' has the meaning given the term in section 101 of the Federal Credit Union Act, 12 U.S.C. 1752, and the term ''insured depository institution'' has the meaning given the term in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. 1813.

[142] Notwithstanding the new partial exemptions, new HMDA section 304(i)(3) provides that an insured depository institution must comply with HMDA section 304(b)(5) and (6) if it has received a rating of ''needs to improve record of meeting community credit needs'' during each of its two most recent examinations or a rating of ''substantial noncompliance in meeting community credit needs'' on its most recent examination under section 807(b)(2) of the CRA.

[143] To generate this estimate, the Bureau first identified all depository institutions (including credit unions) that met all reporting requirements and reported 2017 HMDA data in 2018. From this set of depository institutions, the Bureau then excluded all depository institutions that do not have to report 2018 HMDA data in 2019 because they originated fewer than 25 closed-end mortgage loans in either 2016 or 2017. Of the remaining depository institutions, approximately 3,300 originated fewer than 500 closed-end mortgage loans in both 2016 and 2017. For purposes of this estimate, the Bureau assumed that these institutions are insured, did not have a less than satisfactory CRA examination history, and thus were partially exempt.

sets of estimates of the savings on ongoing costs due to the partial exemptions under the EGRRCPA for closed-end reporting: One set based on the estimate of the impacted institutions in the May 2019 Proposal and the other set based on the actual number of financial institutions that used a partial exemption as reflected in the 2018 HMDA data.[144]

For the open-end lines of credit, the 2017 HMDA Rule grants a complete exclusion for two years (specifically, 2018 and 2019) for reporting open-end lines of credit for all institutions that originated fewer than 500 open-end lines of credit in either of the two preceding calendar years. As such, insured depository institutions or insured credit unions that originated fewer than 500 open-end lines of credit in each of the two preceding calendar years and are partially exempt under the EGRRCPA are already completely excluded from HMDA's requirements for open-end lines of credit during 2018 and 2019 under the 2017 HMDA Rule. In other words, for the years 2018 and 2019, the partial exemption for open-end lines of credit under the EGRRCPA has no immediate effect given the temporary 500 open-end coverage threshold established by the 2017 HMDA Rule.

The 2017 HMDA Rule provides that, absent any future rulemaking, the open-end coverage threshold will revert to 100 open-end lines of credit as established in the 2015 HMDA Rule, starting in 2020. Therefore, with the 2017 HMDA Rule and pre-EGRRCPA as the baseline, the effects of the EGRRCPA on open-end reporting would manifest starting in 2020. In part VI of the May 2019 Proposal, the Bureau estimated that, by 2020, absent other rulemakings, about 595 insured depository institutions or credit unions would be required to report open-end lines of credit at the 100 open-end coverage threshold and eligible for a partial exemption under the EGRRCPA.

Importantly, because the open-end lines of credit flag is one of the exempt data points under the EGRRCPA partial exemptions, it is not possible for the Bureau to identify which 2018 HMDA loan/application register records that reflect an EGRRCPA partial exemption for this data point are closed-end transactions and which are open-end transactions.[145] In other words, it is not possible to identify whether a loan/application register record with the open-end lines of credit flag reported as ''exempt'' in the 2018 HMDA data is exempt because it is a closed-end transaction and the reporter is eligible for the partial exemption for closed-end transactions, or it is an open-end transaction and the reporter is eligible for the partial exemption for open-end transactions.

Nevertheless, the Bureau continues to believe that its original estimate provided in the May 2019 Proposal of the number of open-end reporters that would be eligible for a partial exemption with respect to open-end lines of credit if the open-end reporting threshold were to revert to 100 was and is reasonable. Hence, the Bureau is estimating in this final rule that in 2020 and 2021, relative to the baseline discussed above, *i.e.,* pre-EGRRCPA and post-2017 HMDA Rule, but absent other rulemakings (including the extension of the temporary 500 open-end threshold under this final rule, which is discussed separately below), about 600[146] insured depository institutions and insured credit unions would be impacted as such institutions would otherwise be required to report open-end lines of credit at the 100 open-end coverage threshold and be eligible for the partial exemption each year for two years.

Benefits to Covered Persons

Partial Exemption for Closed-End Mortgage Loans

The partial exemption for closed-end mortgage loans in the EGRRCPA that this final rule implements conveys a direct benefit to the covered persons who are eligible for such exemption by reducing the ongoing costs of having to report certain data points that were previously required.

The Bureau's 2015 HMDA Rule and 2017 HMDA Rule, which define the rules under the baseline for the analyses of this set of provisions, require financial institutions to report a total of 48 data points beginning with the data collected in 2018 and reported in 2019. These data points contain 110 data fields.[147] The EGRRCPA grants partial exemptions for certain transactions of eligible financial institutions from reporting 26 of the 48 data points, which consist of 54 of the 110 data fields. Because this final rule requires insured depository institutions and insured credit unions to provide a NULI if they opt not to report a ULI for a partially exempt transaction, the actual reduction in the number of data fields that financial institutions need to report for partially exempt transactions would be 53. In addition, even though property address is an exempt data point, financial institutions must still report the State in which the property that secures the covered loan (or, in the case of an application, is proposed to secure the loan) is located for partially exempt transactions, because State is an individual data point that is not exempt under the EGRRCPA but it is also a data field associated with property address, which is exempt under the EGRRCPA. Therefore, the total number of data fields that the eligible covered person must report for a partially exempt transaction would be reduced by 52.

With the exception of denial reasons (which were previously optionally reported prior to the 2015 HMDA Rule, except that certain financial institutions supervised by the OCC and the FDIC were required to report denial reasons) and rate spread, all of the data points (and data fields) that are partially exempt under the EGRRCPA as implemented by the 2018 HMDA Rule and this final rule correspond to data points (and data fields) that the Bureau added to the HMDA reporting as

[144] The Bureau believes, however, that in cases where options are available to financial institutions under a rule (in this case, eligible institutions are no longer required to report certain data points, but they have the option to report such data points in full), in general, the impact analysis of such a rule should be based on a projection of the impacted institutions eligible for the options, and not on the number of institutions that actually use or decline to use the options, if the number of such institutions using the options could not be known ex ante. The Bureau believes that, given that collection of 2018 data was already underway when the EGRRCPA partial exemptions took effect and that system changes implementing the new partial exemptions may take time to complete, the number of institutions that used a partial exemption for 2018 data is likely less than the number of eligible institutions. However, because no information was available about the open-end origination volumes of the financial institutions in year 2017 and 2016, other than the Bureau's estimates, it is not feasible to verify this affirmatively.

[145] All other data points that could theoretically help distinguish open-end transactions from closed-end transactions based on loan characteristics and reporting requirements that are different for closed-end transactions than for open-end transactions (such as total loan costs, which are required for most closed-end single-family originated loans excluding reverse mortgages and loans primarily for commercial or business transactions, but not required for open-end transactions), are also exempt data points under the EGRRCPA and not required to be reported by eligible institutions.

[146] In part VI of the May 2019 Proposal, the Bureau estimated that, by 2020, absent other rulemakings, about 595 insured depository institutions and insured credit unions would be required to report open-end lines of credit at the 100 open-end coverage threshold and eligible for a partial exemption under the EGRRCPA. The Bureau notes that in this final rule, this estimation of 595 impacted institutions was rounded to about 600 impacted institutions to avoid the potentially misleading appearance of precision in light of the uncertainty.

[147] *See* FFIEC, ''Filing Instructions Guide for HMDA Data Collected in 2019,'' at 13–65 (Oct. 2018), *https://s3.amazonaws.com/cfpb-hmda-public/prod/help/2019-hmda-fig.pdf.*

mandated by the Dodd-Frank Act or pursuant to the Bureau's discretionary authority granted under the Dodd-Frank Act.[148]

The analysis under section 1022(b) of the Dodd-Frank Act in the 2015 HMDA Rule noted that the Bureau was adding 50 new data fields with new data points that previously did not exist under Regulation C. To estimate the costs that financial institutions would incur in collecting and reporting these data, the Bureau used a cost-accounting, case-study methodology which involved an extensive set of interviews with financial institutions and their vendors through which the Bureau identified 18 component tasks involved in collecting and reporting HMDA data and estimated the number of person-hours required and the costs of each task for institutions of various levels of complexity. The Bureau augmented this information through the Small Business Review Panel process and through notice and comment on its proposed cost estimates, as well as through a review of academic literature and public data. Based on the information gathered in this process, the Bureau estimated that the impact of the additional 50 data fields on annual operational costs of covered person for closed-end reporting would be approximately $2,100, $10,900, and $31,000 per year for representative tier 3, tier 2, and tier 1 financial institutions, respectively, after accounting for the operational improvements that the Bureau was planning to implement regarding how the Bureau receives and processes submitted data.[149] Since issuing the 2015 HMDA Rule, the Bureau has modernized the HMDA submission system, improved its regulatory HMDA help functions, and made other operational changes that were initially discussed in the impact analyses of the 2015 HMDA Rule. The Bureau has not obtained new information with respect to the component tasks or costs set forth in the 2015 HMDA Rule. Therefore, it is reasonable to adopt these cost estimates, which reflect the operational improvements described in the 2015 HMDA Rule, with certain adjustments that reflect this final rule. To do so, the Bureau takes the 2015 estimates on the annual ongoing costs associated with the new additional data points added in the 2015 HMDA Rule, prorates the amount to account for the reduced number of data fields required due to the EGRRCPA partial exemptions, adjusts those for inflation, and arrives at a set of estimates for the savings on the operational costs due to the partial exemptions for representative firms in each of the three tiers.[150] Specifically, the Bureau estimates that the savings on annual operational costs from not reporting the 52 data fields for closed-end mortgage loans that are exempt under the EGRRCPA and this final rule would be approximately $2,300, $11,900, and $33,900 per year for representative tier 3, tier 2, and tier 1 financial institutions that are eligible for the partial exemption.

In part VI of the May 2019 Proposal, the Bureau specifically requested information relating to the costs financial institutions incurred in collecting and reporting 2018 data in compliance with the 2015 HMDA Rule that may be valuable in estimating costs in the Dodd-Frank Act section 1022(b) analysis issued with the final rule. The Bureau received a number of comments regarding the costs of collecting and reporting data in compliance with the 2015 HMDA Rule. Although most comments did not provide specific cost estimates of compliance, one small financial institution commented that it was expending approximately $12,000 in employee expenses alone to generate its loan/application register or approximately $68–100 per loan/application register record. Based on the information provided by this commenter, the Bureau estimates the annual loan/application register size for this commenter is between 175 and 200 records, which is close to the Bureau's assumption for a representative low-complexity, tier 3 financial institution in the estimates provided in the 2015 HMDA Final Rule. Specifically, the Bureau estimated that for a representative low-complexity, tier 3 financial institution with 50 HMDA loan/application register records, the total ongoing costs with operational improvements the Bureau has implemented since issuing the 2015 HMDA Rule would be about $4,400, or about $88 per loan/application register record. Therefore, the Bureau believes the cost estimates that the commenter provided confirms the Bureau's cost-estimates in the 2015 HMDA Rule were and are reasonable, and therefore can serve as the basis of the cost estimates for this final rule.

Additionally, in the 2015 HMDA Rule, the Bureau assumed a representative medium-complexity, tier 2 financial institution had 1,000 HMDA loan/application register records per year while a high-complexity, tier 1 financial institution had 50,000 HMDA loan/application register records per year. The partial exemption for closed-end mortgage loans granted under the EGRRCPA and that this final rule implements applies only to insured depository institutions and insured credit unions that originated less than 500 closed-end mortgage loans in each of the two preceding calendar years prior to the HMDA collection year. Given that and the Bureau's characterization of representative financial institutions in the three tiers, the Bureau believes that none of the tier 1 institutions are partially exempt for closed-end reporting.

As explained in the May 2019 Proposal, some of the estimated partially exempt covered persons would be low-complexity/tier 3 institutions, while some would belong to tier 2. Under the estimates provided in the May 2019 Proposal, which the Bureau continues to believe are reasonable, the Bureau estimates that of the 3,300 institutions expected to be impacted, approximately 2,640 institutions eligible for the partial exemption from closed-end reporting are similar to the representative tier 3 financial institutions and approximately 660 eligible institutions belong to tier 2. Based on these counts, the Bureau estimates that the aggregate savings in ongoing operational costs for covered persons due to the EGRRCPA's partial exemption from closed-end reporting would be approximately $13.9 million annually.

Alternatively, if the Bureau were to assume that the number of impacted institutions remains at 2,200, which was the actual number of reporters that used the partial exemption in the 2018 HMDA data, approximately 1,850 institutions eligible for the partial exemption from closed-end reporting are similar to the representative tier 3 financial institutions and approximately

[148] On the other hand, as explained in the section-by-section analysis of § 1003(d)(1)(i) in part V above, age and number of units are not partially exempt under the EGRRCPA even though they were added to Regulation C in the 2015 HMDA Rule.

[149] For example, the Bureau planned to create a web-based submission tool with automated edit checks and to otherwise streamline the submission and editing process to make it more efficient for filers. In addition, the Bureau planned to consolidate the outlets for assistance, provide implementation support, and improve points of contact processes for help inquiries. These changes were implemented in 2018 for the 2017 filing year. The Bureau has received feedback from reporting entities on the new systems, which generally indicate substantial costs savings.

[150] The Bureau used a wage rate of $33 per hour in its 2015 HMDA Rule impact analyses, which is the national average wage for compliance officers based on the Occupational Employment Statistics from the Bureau of Labor Statistics in May 2014. The May 2018 National Compensation Survey reported an average wage rate for compliance officers of $34.86 and their median wage was $33.10 (available at *https://www.bls.gov/oes/current/oes131041.htm*). The Bureau has used a wage rate of $34 for the impact analyses for this final rule.

350 eligible institutions belong to tier 2. Based on these alternative counts, the Bureau estimates that the aggregate savings in ongoing costs for covered persons due to the EGRRCPA's partial exemption from closed-end reporting would be approximately $8.4 million annually.

Combining these two sets of estimates, the Bureau estimates that the aggregate savings in ongoing costs for covered persons due to the EGRRCPA's partial exemption from closed-end reporting would be between approximately $8.4 million and $13.9 million annually.

Partial Exemption for Open-End Lines of Credit

Starting in 2020,[151] absent the temporary extension of the open-end coverage threshold at 500 for two additional years in this final rule, which is analyzed separately below in part VII.E.3, the partial exemption for open-end lines of credit in the EGRRCPA that this final rule implements would convey a direct benefit to covered persons who are eligible for such exemption by reducing the ongoing costs of having to report certain data points that were previously required.

In the impact analysis of the 2015 HMDA Rule, the Bureau estimated that, accounting for the Bureau's planned operational improvements, the estimated impact of the 2015 HMDA Rule on ongoing operational costs on open-end reporters would be approximately $8,600, $43,400, and $273,000 per year, for representative low-, moderate-, and high-complexity financial institutions, respectively. The Bureau takes such 2015 estimates on the annual ongoing costs associated with open-end reporting, prorates the amount to account for the reduced number of data fields required due to the EGRRCPA partial exemption, adjusts those for inflation, and arrives at a set of estimates for the savings on the operational costs of reporting information on open-end lines of credit due to the partial exemption for representative firms in each of the three tiers. Specifically, the Bureau estimates that the impact on the savings on annual operational costs from not reporting the 52 data fields for open-end mortgage loans that are exempt under the EGRRCPA would be approximately $4,500, $22,800, and $144,000 per year for representative tier 3, tier 2, and tier 1 open-end reporting financial institutions that are eligible for the partial exemption.

The Bureau estimates that, absent the temporary extension of the open-end coverage threshold at 500 for two additional years in this final rule, about 600[152] financial institutions would be partially exempt from reporting certain data points on open-end lines of credit under the EGRRCPA.

On the other hand, because the numbers of open-end line of credit applications and purchased loans were not available in any data sources prior to the 2018 HMDA data, the Bureau relied on the projected number of open-end originations as a proxy for the projected number of open-end line of credit loan/application register records (comprising originations, applications not originated, and purchased loans)[153] for the analyses in part VI of the May 2019 Proposal.[154] With the benefit of the 2018 HMDA data, the Bureau now can evaluate the impact of the final rule using a more accurate estimate of the number of open-end line of credit loan/application register records. Because most of the data points under HMDA are required for all loan/application register records and not just originated loans and lines of credit, the Bureau believes it is appropriate to update its estimates of cost and cost savings based on the number of open-end line of credit loan/application register records instead of originations. About 2.3 million open-end line of credit loan/application register records were reported in the 2018 HMDA data, with about 1.14 million of those records being open-end line of credit originations.[155] Therefore, the Bureau has supplemented its analyses regarding costs and cost savings by incorporating this new information in the paragraphs below.

According to the Bureau's estimates in the May 2019 Proposal, about 545 of those 595 partially exempt open-end reporters are low-complexity tier 3 open-end reporters, about 50 are moderate-complexity tier 2 open-end reporters, and none are high-complexity tier 1 reporters. According to the Bureau's updated estimates, about 350 of those approximately 600 partially exempt open-end reporters are low-complexity tier 3 open-end reporters, about 250 are moderate-complexity tier 2 open-end reporters, and none are high-complexity tier 1 reporters.[156] Using these estimates, the Bureau estimates that by granting a partial exemption to most insured depository institutions and insured credit unions that originate fewer than 500 open-end lines of credit in each of two preceding years, absent the temporary extension of the open-end coverage threshold of 500 open-end lines of credit in this final rule for two additional years starting in 2020, the EGRRCPA would provide an aggregate reduction in ongoing operational costs associated with open-end lines of credit for eligible financial institutions of about $7.4 million per year. This is higher than the Bureau's initial estimate in the May 2019 Proposal of about $3.6 million in annual savings on operational costs due to the partial exemption on open-end reporting. This higher estimate for the reduction in annual operational costs is based on the Bureau's updated analysis that uses the projected number of loan/application register records supplemented by the 2018 HMDA data, which is approximately twice the number of projected open-end originations the Bureau relied on in the May 2019 Proposal. Although the estimated total cost reduction is higher than it was in the proposal based on the additional 2018 HMDA data, the overall analysis is consistent with the Bureau's methodology and conclusions from the May 2019 Proposal.

Costs to Covered Persons

It is possible that, like any new regulation or revision to the existing

[151] As noted above, for the years 2018 and 2019, the partial exemption regarding open-end lines of credit would have no immediate effects given the temporary coverage threshold of 500 open-end lines of credit established in the 2017 HMDA Rule.

[152] In part VI of the May 2019 Proposal, the Bureau estimated that, by 2020, absent other rulemakings, about 595 insured depository institutions or credit unions would be required to report open-end lines of credit at the 100 open-end coverage threshold and eligible for a partial exemption under the EGRRCPA. The Bureau notes that in this final rule, this estimation of 595 impacted institutions was rounded to about 600 impacted institutions to avoid the potentially misleading appearance of precision in light of the uncertainty.

[153] As reflected in the 2018 HMDA data, very few open-end lines of credit are reported as ''purchased.'' Therefore the number of open-end loan/application register records is very close to the number of open-end line of credit applications and originations.

[154] In other words, because of the lack of information on the number of open-end line of credit applications relative to the number of open-end line of credit originations, the Bureau used the number of open-end line of credit originations to estimate the total number of open-end line of credit loan/application register records in developing the estimates for the May 2019 Proposal before the 2018 HMDA data became available.

[155] By comparison, in the May 2019 Proposal the Bureau estimated approximately 1.23 million open-end line of credit originations.

[156] The increase in the number of tier 2 reporters in the Bureau's updated estimates, compared to estimates in the May 2019 proposal, is due to the fact that the overall volume of open-end loan/application records, which includes previously-unavailable data on non-originated open-end applications, is nearly double the volume of open-end originations. Using the total number of open-end loan/application register records thus shifted more small reporters from the tier 3 category to the tier 2 category based on the Bureau's methodology, as explained above.

regulations, financial institutions would incur certain one-time costs adapting to the changes of the final rule. Based on the Bureau's early outreach to stakeholders, the Bureau understands that most such one-time costs would result from interpreting and implementing the regulatory changes, but not from purchasing software upgrades or turning off the existing reporting functionality that the eligible institutions already built or purchased prior to the EGRRCPA taking effect.

The Bureau did not receive comments on any costs to eligible financial institutions associated with the May 2019 Proposal relating to the incorporation of the EGRRCPA into Regulation C.

Benefits to Consumers

Having generated estimates of the reduction in ongoing costs for closed-end mortgage loans on financial institutions due to the EGRRCPA partial exemption for closed-end mortgage loans implemented by this final rule, the Bureau can estimate the potential pass-through of such cost reduction from these institutions to consumers,[157] which could benefit consumers. According to economic theory, in a perfectly competitive market where financial institutions are profit maximizers, the affected financial institutions would pass on to consumers the marginal, *i.e.,* variable, cost savings per application or origination, and absorb the one-time and increased fixed costs of complying with the rule.

The Bureau estimated in the 2015 HMDA Rule that the 50 data fields of the new data points required under the 2015 HMDA Rule would add variable costs per application for closed-end mortgage loans of approximately $22 for a representative tier 3 financial institution, $0.62 for a representative tier 2 financial institution, and $0.05 for a representative tier 1 financial institution.[158] As explained above, the partial exemption in the EGRRCPA and this final rule will reduce the number of data fields that have to be reported by 52 and almost all those partially exempt data fields correspond to data fields for new data points added by the 2015 HMDA Rule. Adjusting these figures to account for the difference in the number of the data fields that are partially exempt under the EGRRCPA and the number of data fields of new data points added by the 2015 HMDA Rule, and adjusting for inflation, the Bureau estimates that the partial exemption under the EGRRCPA and this final rule would reduce the variable cost per closed-end mortgage loan application for a representative tier 3 financial institution by about $24 and for a representative tier 2 financial institution by about $0.68. This potential reduction in the expense facing consumers when applying for a closed-end mortgage will be amortized over the life of the loan and represents a very small decrease in the cost of a mortgage loan. Therefore, the Bureau does not anticipate any material effect on credit access in the long or short term if financial institutions pass on these cost savings to consumers.

Similarly, having generated estimates of the reduction in ongoing costs for open-end mortgage loans on financial institutions due to the EGRRCPA partial exemption for open-end lines of credit implemented in this final rule, the Bureau can estimate the potential pass-through of such cost reduction from these institutions to consumers, which could benefit consumers.

The Bureau estimated in the 2015 HMDA Rule that the rule would increase variable costs by $41.50 per open-end line of credit application for representative low-complexity institutions and $6.20 per open-end line of credit application for representative moderate-complexity institutions. Accounting for the difference in the number of the data fields that are partially exempt under the EGRRCPA and the total number of data fields that comprise all data points under the 2015 HMDA Rule, and adjusting for inflation, the Bureau estimates that the partial exemption under the EGRRCPA and this final rule would reduce the variable cost per open-end line of credit application for a representative tier 3 financial institution by about $22 and for a representative tier 2 financial institution by about $3. These savings on the variable costs by the partially exempt open-end reporters could potentially be passed through to consumers, under the assumption of a perfectly competitive market with profit maximizing firms. These expenses will be amortized over the life of a loan and represent a very small amount relative to the cost of a mortgage loan. The Bureau notes that the market structure in the consumer mortgage lending market may differ from that of a perfectly competitive market (for instance due to information asymmetry between lenders and borrowers) in which case the pass-through to the consumers would most likely be smaller than the pass-through under the perfect competition assumption.[159] Therefore, the Bureau does not anticipate any material effect on credit access in the long or short term even if financial institutions pass on these reduced costs to consumers.

Costs to Consumers

The partial exemptions under the EGRRCPA and further implemented through this final rule remove the reporting requirements for 26 data points for certain transactions of eligible insured depository institutions and insured credit unions. As a result, regulators, public officials, and members of the public will lose information about the credit offered by these partially exempt institutions and overall credit in the communities they serve. The decreased information about partially exempt financial institutions may lead to adverse outcomes for some consumers. For instance, some of the exempt data points could have helped the regulators and public officials better understand the type of funds that are flowing from lenders to consumers and the needs of consumers for mortgage credit. Additionally, some exempt data points could improve the processes used to identify possible discriminatory lending patterns and enforce antidiscrimination statutes. In addition, without the exempt data regarding, for example, underwriting and pricing, some lenders with low fair lending risk may be initially misidentified as high risk, potentially increasing their associated compliance burden. Finally, to the extent that some covered persons may use the information reported by other financial institutions for market research purposes, the partial exemptions may potentially lead to less vigorous competition from these institutions. The Bureau has no quantitative data that can sufficiently measure the magnitude of this impact.

3. Provisions to Temporarily Extend the Open-End Coverage Threshold of 500 Open-End Lines of Credit

Scope of the Provisions

The final rule extends the temporary open-end coverage threshold of 500 open-end lines of credit for two additional years (2020 and 2021).

The 2015 HMDA Rule generally requires financial institutions that originated at least 100 open-end lines of

[157] Note that throughout this cost-benefit analysis, the Bureau discusses such pass-through in order to present a complete picture of the benefits that are the result of the May 2019 Proposal. However, such pass-through from the financial institution to consumers as a result of the May 2019 Proposal is a direct flow from the savings to the financial institutions, and should not be interpreted as a gain in addition to the savings to the financial institutions from a general equilibrium perspective for the calculation of total social benefit.

[158] 80 FR 66128, 66291 (Oct. 28, 2015).

[159] The further the market moves away from a perfectly competitive market, the smaller the pass-through would be.

credit in each of the two preceding years to report data about their open-end lines of credit and applications. The 2017 HMDA Rule temporarily increased the open-end coverage threshold to 500 for two years, meaning only financial institutions that originated at least 500 open-end lines of credit in each of the two preceding years are subject to HMDA's requirements for their open-end lines of credit for 2018 and 2019. The EGRRCPA generally provides a partial exemption for insured depository institutions and insured credit unions that originated less than 500 open-end lines of credit in each of the two preceding years. However, for 2018 and 2019, all insured depository institutions and insured credit unions that are granted a partial exemption for open-end lines of credit by the EGRRCPA are fully excluded from HMDA's requirements for their open-end lines of credit by the 2017 HMDA Rule. Absent any further changes via a rulemaking process, according to the 2015 HMDA Rule and the 2017 HMDA Rule, starting in 2020 the open-end coverage threshold will adjust to 100, and institutions that exceed the coverage threshold of 100 open-end lines of credit will be able to use the EGRRCPA's open-end partial exemption if they originated less than 500 open-end lines of credit in each of the two preceding years. Thus, the appropriate baseline for the consideration of benefits and costs of the two-year extension of the temporary threshold of 500 open-end lines of credit in the final rule is a situation in which the open-end coverage threshold is set at 100 for each of two preceding years for HMDA data collection in 2020 and 2021, and the partial exemption with a threshold of 500 open-end lines of credit applies.

The Bureau has used multiple data sources, including credit union Call Reports, Call Reports for banks and thrifts, HMDA data, and Consumer Credit Panel data, to develop estimates about open-end originations for lenders that offer open-end lines of credit and assess the impact of various thresholds on the numbers of reporters and market coverage under various scenarios.[160]

In part VI of the May 2019 Proposal, the Bureau estimated that there were about 1.59 million open-end lines of credit originated in 2017 by about 6,615 lenders, and under the temporary 500 open-end line of credit coverage threshold set in the 2017 HMDA Rule, about 333 financial institutions would be required to report open-end lines of credit, accounting for about 1.23 million open-end lines of credit. In comparison, if the open-end coverage threshold were set at 100, the Bureau estimated that the number of reporters would be about 1,014, who in total originated about 1.41 million open-end lines of credit. In other words, if the coverage threshold is increased to 500 for another two years (2020 and 2021), in comparison to the default baseline where the threshold is set at 100 in 2020, the Bureau estimated that the number of institutions affected would be about 681, who in total originated about 177,000 open-end lines of credit. Among those 681 institutions, the Bureau estimated that about 618 already qualify for a partial exemption for their open-end lines of credit under the EGRRCPA and in total they originate about 136,000 open-end lines of credit.

The majority of the analyses in part VI of the May 2019 Proposal rule was conducted prior to the official submission deadline of the 2018 HMDA data on March 1, 2019, and 2017 was the most recent year of HMDA data the Bureau used for the analyses in the May 2019 Proposal. For this part of the final rule, the Bureau has supplemented the analyses with the 2018 HMDA data now available and released to the public on August 30, 2019. In the 2018 HMDA data about 957 reporters actually reported any open-end line of credit transactions. In total, these institutions reported about 1.15 million open-end originations, which is close to what the Bureau projected in its estimate of 1.23 million originations to be reported in the May 2019 Proposal. Even though the number of open-end reporters in the 2018 HMDA data (957) is greater than the number the Bureau forecasted would be required to report (333) in the May 2019 Proposal, only 307 of them that reported open-end transactions in the 2018 HMDA data actually reported greater than 500 open-end originations, which is close to the Bureau's projection that there would be 333 required open-end reporters. The Bureau's projection in the May 2019 Proposal was based on the projected number of open-end reporters whose open-end origination volumes were greater than 500 in each of the preceding two years (which is how the HMDA reporting requirements are structured), and not on the volume from the current HMDA activity year; in addition, that projection cannot account for the number of reporters who would report voluntarily even though they are not required to do so. Given this, it is possible that some lenders with open-end line of credit origination volumes exceeding 500 in both 2016 and 2017 originated fewer than 500 open-end lines of credit in 2018, but were nevertheless required to report their 2018 data under the HMDA reporting requirements. On the other hand, it is also possible that some reporters opted to report their open-end lending activities in the 2018 HMDA data even though they were not required to report. Regardless, these 2018 open-end reporters with reported origination volume less than 500 in 2018 will not be required to collect data on their open-end activity in 2020 when the two-year temporary extension of the 500 open-end threshold of this final rule takes effect, based on the two-year lookback period of the reporting requirements. Therefore, for the purpose of the consideration of costs and benefits of the final rule, it is reasonable to exclude these 2018 open-end reporters with open-end origination volumes below 500 from the Bureau's projections of impacted institutions. Hence, the Bureau believes that its estimate of the number of impacted institutions due to the two-year temporary extension provided in the May 2019 Proposal was and is reasonable and consistent with the actual number of open-end reporters in the 2018 HMDA data.

On the other hand, because the number of open-end applications was not available in any data sources prior to the 2018 HMDA data, in past HMDA rulemakings related to open-end reporting, the Bureau relied on the projected number of originations as a proxy of the number of loan/application register records for the analyses. With the 2018 HMDA data reported, the Bureau now can evaluate the impact of the final rule using the projected loan/application register records instead of projected originations for the first time. Because most of the data points under HMDA are required for all loan/application register records, not just originated loans, the Bureau has updated the estimates of cost and cost savings for open-end lines of credit based on the number of loan/application register records instead of originations. The Bureau's coverage estimates, however, continue to be based on originations because the thresholds are based on origination volume, and thus, as noted immediately above, the estimates previously provided continue to be reasonable. The analyses below have been supplemented to reflect the new 2018 data that includes

[160] In general, credit union Call Reports provide the number of originations of open-end lines of credit secured by real estate but exclude lines of credit in the first-lien status. Call Reports for banks and thrifts report only the balance of the home-equity lines of credit at the end of the reporting period but not the number of originations in the period.

applications, originations, and purchased loans.

Table 3 below shows the estimated number of open-end lines of credit reporters, their estimated origination volume, and the market share under 100 and 500 open-end coverage thresholds.

TABLE 3

Open-end lines of credit	Universe	Reporting threshold	
		100	500
# of Loans (in 1,000's):			
All	1,590	1,410	1,233
Market Coverage		88.7%	77.6%
Type:			
Banks & Thrifts	880	814	753
Credit Unions	653	545	437
Non-DIs	57	51	44
Agency:			
OCC	34	22	10
Fed	34	24	9
FDIC	96	59	29
NCUA	563	484	378
HUD	57	51	44
CFPB	766	766	761
# of Institutions:			
All	6,615	1,014	333
Type:			
Banks & Thrifts	3,819	391	113
Credit Unions	2,578	581	205
Non-DIs	218	42	15
Agency:			
OCC	624	65	12
Fed	433	72	9
FDIC	1,842	173	29
NCUA	1,650	561	197
HUD	218	42	15
CFPB	99	86	68

Benefits to Covered Persons

The extension of the temporary open-end coverage threshold of 500 for two additional years, as compared to the alternative of having the threshold adjust to 100, conveys a direct benefit to covered persons that originated fewer than 500 open-end lines of credit in either of the two preceding years but originated no less than 100 open-end lines of credit in each of the two preceding years in reducing the ongoing costs associated with open-end lines of credit during 2020 and 2021.

In the impact analysis of the 2015 HMDA Rule, the Bureau estimated that, accounting for the Bureau's planned operational improvements, the ongoing operational costs on open-end reporters for all data points required under the 2015 HMDA Rule would be approximately $8,600, $43,400, and $273,000 per year, for representative low-, moderate-, and high-complexity financial institutions, respectively. Adjusting for inflation, this is equivalent to approximately $8,800, $44,700, and $281,100 per year currently. On the other hand, accounting for the reduced number of required data points and inflation, the Bureau now estimates that the ongoing costs of open-end reporting would be about $4,300, $21,900, and $138,000 per year, for representative low-, moderate-, and high-complexity financial institutions, respectively, that are eligible for a partial exemption for open-end lines of credit under the EGRRCPA.

The Bureau estimates that, with the coverage threshold increased to 500 as compared to reverting to 100 for 2020 and 2021, about 680 financial institutions will be excluded from reporting open-end lines of credit during the two years.[161] About 600 of those approximately 680 financial institutions are eligible for the partial exemption for open-end lines of credit under the EGRRCPA and further implemented by the 2018 HMDA Rule and this final rule, and about 80 of them are not eligible for the partial exemption for open-end lines of credit because in one of the preceding two years their open-end origination volume was at least 500. In the May 2019 Proposal, the Bureau estimated that 618 reporters would be eligible for the partial exemption, of which about 567 are low-complexity tier 3 open-end reporters, about 51 are moderate-complexity tier 2 open-end reporters, and none are high-complexity tier 1 reporters. Supplementing the analysis with the 2018 data, the Bureau estimates that, of the 600 institutions that are already eligible for a partial exemption under the EGRRCPA but will be fully excluded for two additional years from open-end reporting by this final rule, about 350 are low-complexity tier 3 open-end reporters, about 250 are moderate-complexity tier 2 open-end reporters, and none are high-complexity tier 1 reporters.

In addition, in the May 2019 Proposal, the Bureau estimated that of the 63 institutions that are not eligible for the partial exemption under the EGRRCPA but would be fully excluded for two additional years from open-end reporting by the May 2019 Proposal, about 26 are low-complexity tier 3 open-end reporters, about 37 are moderate-complexity tier 2 open-end reporters, and none are high-complexity tier 1 reporters. Supplementing the analysis with the 2018 data, the Bureau now

[161] The Bureau estimated in the May 2019 Proposal that about 681 financial institutions would be excluded from reporting open-end lines of credit during the two years. This number is rounded to about 680 in this updated analysis to avoid the potentially misleading appearance of precision in light of the uncertainty.

estimates that of the 80 institutions that are not eligible for the partial exemption under the EGRRCPA but will be fully excluded for two additional years from open-end reporting by this rule, about 30 are low-complexity tier 3 open-end reporters, about 50 are moderate-complexity tier 2 open-end reporters, and none are high-complexity tier 1 reporters. The shift to more tier 2 reporters in the Bureau's updated estimates is mostly due to the fact that in the 2018 HMDA data the overall volume of open-end loan/application records, including applications that are not originated, is nearly double, which shifts more small reporters to the tier 2 category based on the Bureau's methodology as explained previously. Using the estimates of savings on ongoing costs for open-end lines of credit for representative financial institutions, grouped by whether the lender is already eligible for the partial exemption under the EGRRCPA, as described above, the Bureau estimates that by extending the temporary 500 open-end coverage threshold for two years, the eligible financial institutions that are already partially exempt under the EGRRCPA will receive an aggregate reduction in operational cost associated with open-end lines of credit of about $7.0 million per year in the years 2020 and 2021. The eligible financial institutions that are not already partially exempt under the EGRRCPA will receive an aggregate reduction in operational cost associated with open-end lines of credit of about $2.4 million per year in the years 2020 and 2021. In total, extending the 500 open-end line of credit threshold for two additional years will result in operational cost savings of about $9.4 million per year in the years 2020 and 2021.

In the May 2019 Proposal, the Bureau estimated that the annual savings on operational costs would be about $5.6 million due to the two-year extension of the temporary open-end threshold of 500 open-end lines of credit. The higher estimate presented above for the final rule is mainly due to the fact that the Bureau now is able to supplement new information from the 2018 HMDA data, which allows the Bureau to conduct the estimates based on the number of open-end loan/application register records rather than the number of originations. Although the estimated total cost reduction is higher than it was in the proposal based on the additional 2018 HMDA data, the overall analysis is consistent with the Bureau's methodology and conclusions from the May 2019 Proposal.

It is the Bureau's understanding that most of the financial institutions that were temporarily excluded for 2018 and 2019 under the 2017 HMDA Rule have not fully prepared for open-end reporting because they have been waiting for the Bureau to decide on the open-end reporting threshold that will apply after the temporary threshold of 500 loans expires in 2020. Under the baseline in this impact analysis, absent this final rule, those financial institutions would have to start reporting their open-end lines of credit starting in 2020, and hence incur one-time costs to create processes and systems for open-end lines of credit. The extension of the 500 open-end coverage threshold for 2020 and 2021 in this final rule will delay incurrence of such one-time costs for two more years.

Costs to Covered Persons

It is possible that, like any new regulation or revision to the existing regulations, financial institutions may incur certain one-time costs adapting to the changes to the regulation. Based on the Bureau's early outreach to stakeholders, the Bureau understands that most of such one-time costs will result from interpreting and implementing the regulatory changes, but not from purchasing software upgrades or turning off the existing reporting functionality that the eligible institutions already built or purchased prior to the new changes taking effect.

Benefits to Consumers

Having generated estimates of the reduction in ongoing costs on covered financial institutions due to the temporary increase in the open-end coverage threshold, the Bureau then attempts to estimate the potential pass-through of such cost reduction from the lenders to consumers, which could benefit consumers. According to economic theory, in a perfectly competitive market where financial institutions are profit maximizers, the affected financial institutions would pass on to consumers the marginal, *i.e.,* variable, cost savings per application or origination, and absorb the one-time and increased fixed costs of complying with the rule.

The Bureau estimated in the 2015 HMDA Rule that the rule would increase variable costs by $41.50 per open-end line of credit application for representative low-complexity institutions and $6.20 per open-end line of credit application for representative moderate-complexity institutions. These savings on variable costs by the excluded open-end reporters could potentially be passed through to the consumers, if the market is perfectly competitive. These expenses will be amortized over the life of a loan and represent a negligible reduction in the cost of a mortgage loan. The Bureau notes that the market structure in the consumer mortgage lending market may differ from that of a perfectly competitive market (for instance due to information asymmetry between lenders and borrowers) in which case the pass-through to the consumers would most likely be smaller than the pass-through under the perfect competition assumption.[162] Therefore, the Bureau does not anticipate any material effect on credit access in the long or short term even if financial institutions pass on these reduced costs to consumers.

Costs to Consumers

The extension of the temporary coverage threshold of 500 for open-end lines of credit for 2020 and 2021 will reduce the open-end data submitted under HMDA. As a result, HMDA data on these institutions' open-end loans and applications will no longer be available to regulators, public officials, and members of the public. The decreased data from affected financial institutions may lead to adverse outcomes for some consumers. For instance, reporting data on open-end line of credit applications and originations and on certain demographic characteristics of applicants and borrowers could help the regulators and public officials better understand the type of funds that are flowing from lenders to consumers and consumers' need for mortgage credit. Open-end line of credit data that may be relevant to underwriting decisions may also help improve the processes used to identify possible discriminatory lending patterns and enforce antidiscrimination statutes. The Bureau has no quantitative data that can sufficiently measure the magnitude of this impact.

F. Potential Specific Impacts of the Final Rule

1. Depository Institutions and Credit Unions With $10 Billion or Less in Total Assets, as Described in Section 1026

As discussed above, the final rule incorporates the interpretations and procedures from the 2018 HMDA Rule into Regulation C and further implements section 104(a) of the EGRRCPA, which grants eligible financial institutions partial exemptions from HMDA's requirements for certain transactions and extends for a period of two years the current temporary threshold for reporting data about open-

[162] The further the market moves away from a perfectly competitive market, the smaller the pass-through would be.

end lines of credit of 500 open-end lines of credit.

Both sets of provisions in the final rule focus on burden reduction for smaller institutions. Therefore, the Bureau believes that the benefits of this rule to depository institutions and credit unions with $10 billion or less in total assets will be similar to the benefit to creditors as a whole, as discussed above.

Specifically, the Bureau estimates that the reduction in annual operational costs from the partial exemption for closed-end reporting under the EGRRCPA and further implemented by the 2018 HMDA Rule and this final rule will be approximately $2,300, $11,900, and $33,900 per year for representative tier 3, tier 2, and tier 1 depository institutions and credit unions with $10 billion or less in total assets that are eligible for the partial exemptions of closed-end reporting. The Bureau estimates that all but about eight of the approximately 3,300 institutions that are eligible for the partial exemption from closed-end reporting are small depository institutions or credit unions with assets at or below $10 billion. About 2,672 of the partially exempt closed-end reporting small depository institutions or credit unions are low-complexity tier 3 closed-end reporters, with the rest being moderate-complexity tier 2 closed-end reporters, and none are high-complexity tier 1 reporters. Based on these calculations, the Bureau estimates that the aggregate savings on ongoing costs for these institutions will be approximately $13.5 million annually.

The Bureau estimates that the reduction in annual operational costs starting in calendar year 2020 from the partial exemption from open-end reporting under the EGRRCPA, absent the temporary open-end threshold extension, would be approximately $4,500, $22,800, and $144,000 per year for representative tier 3, tier 2, and tier 1 depository institutions and credit unions with $10 billion or less in total assets that are eligible for the partial exemptions of open-end reporting. For purposes of this final rule, the Bureau estimates that about 580 out of the approximately 600 financial institutions that are partially exempt from reporting certain data points on open-end lines of credit under the EGRRCPA are small depository institutions or credit unions with assets at or below $10 billion. According to the Bureau's updated estimates, which incorporate the number of applications instead of originations, about 380 of those 580 partially exempt small depository institutions or credit unions are low-complexity tier 3 open-end reporters, about 200 are moderate-complexity tier 2 open-end reporters, and none are high-complexity tier 1 reporters.[163] Based on these counts, the Bureau estimates that the aggregate savings on ongoing costs for these small depository institutions or credit unions due to the partial exemption from open-end reporting will be approximately $6 million annually, starting in calendar year 2020.

For the temporary two-year extension of the open-end coverage threshold of 500 originations in the final rule, the Bureau estimates that for depository institutions and credit unions with $10 billion in assets or less that will not have to report open-end lines of credit under the final rule, the reduction in annual ongoing operational costs for the excluded institutions not eligible for the partial exemption for open-end lines of credit under the EGRRCPA will be approximately $8,800, $44,700, and $28,100 per year, for representative low-, moderate-, and high-complexity financial institutions, respectively, and the reduction in annual ongoing operational costs for excluded institutions already partially exempt for open-end lines of credit under the EGRRCPA will be approximately $4,300, $21,900, and $138,000 annually, for representative low-, moderate-, and high-complexity financial institutions, respectively. The Bureau estimates that about 633 of the approximately 680 institutions that will be temporarily excluded from open-end reporting in 2020 and 2021 under this rule are small depository institutions or credit unions with assets at or below $10 billion, and about 580 of them are already partially exempt under the EGRRCPA. Combined, the Bureau estimates that the annual saving on operational costs for depository institutions and credit unions with $10 billion or less in assets receiving the temporary exclusion for open-end reporting for two additional years under the final rule will be about $7.6 million per year in the years 2020 and 2021.[164]

2. Impact of the Provisions on Consumers in Rural Areas

The final provisions will not directly impact consumers in rural areas. However, as with all consumers, consumers in rural areas may be impacted indirectly. This would occur if financial institutions serving rural areas are HMDA reporters (in which case the final rule will lead to decreased information in rural areas) and if these institutions pass on some or all of the cost reduction to consumers (in which case, some consumers could benefit).

Recent research suggests that financial institutions that primarily serve rural areas are generally not HMDA reporters.[165] The Housing Assistance Council (HAC) suggests that the current asset and geographic coverage criteria already in place disproportionately exempt small lenders operating in rural communities. For example, HAC uses 2009 Call Report data to show that approximately 700 FDIC-insured lending institutions had assets totaling less than the HMDA institutional coverage threshold and were headquartered in rural communities. These institutions, which would not be HMDA reporters, may represent one of the few sources of credit for many rural areas. Some research also suggests that HMDA's coverage of rural areas is limited, especially areas further from MSAs.[166] If a large portion of the rural housing market is serviced by financial

[163] In comparison, in the May 2019 Proposal, the Bureau estimated that about 578 out of the 595 financial institutions that would be partially exempt from reporting certain data points on open-end lines of credit under the EGRRCPA are small depository institutions or credit unions with assets at or below $10 billion, and that about 531 of those 578 partially exempt small depository institutions or credit unions are low-complexity tier 3 open-end reporters, about 47 are moderate-complexity tier 2 open-end reporters, and none are high-complexity tier 1 reporters. The shift to more tier 2 reporters in the Bureau's updated estimates is mostly due to the fact that in the 2018 HMDA data the overall volume of open-end loan/application records, including applications that are not originated, is nearly double, which shifts more small reporters to the tier 2 category based on the Bureau's methodology as explained previously.

[164] In comparison, in the May 2019 Proposal, the Bureau estimated that about 633 of the approximately 681 institutions that would be temporarily excluded from open-end reporting in 2020 and 2021 under the May 2019 Proposal are small depository institutions or credit unions with assets at or below $10 billion, and about 578 of them are already partially exempt under the EGRRCPA. Combined, the Bureau estimated that the annual saving on operational costs for depository institutions and credit unions with $10 billion or less in assets receiving the temporary exclusion for open-end reporting for two additional years under the May 2019 Proposal would be about $5 million per year in the years 2020 and 2021. The shift to more tier 2 reporters in the Bureau's updated estimates is mostly due to the fact that in the 2018 HMDA data the overall volume of open-end loan/application records, including applications that are not originated, is nearly double, which shifts more small reporters to the tier 2 category based on the Bureau's methodology as explained previously.

[165] *See, e.g.,* Keith Wiley, ''What Are We Missing? HMDA Asset-Excluded Filers,'' Hous. Assistance Council (2011), *http://ruralhome.org/storage/documents/smallbanklending.pdf;* Lance George & Keith Wiley, ''Improving HMDA: A Need to Better Understand Rural Mortgage Markets,'' Hous. Assistance Council (2010), *http://www.ruralhome.org/storage/documents/notehmdasm.pdf.*

[166] *See* Robert B. Avery et al., ''Opportunities and Issues in Using HMDA Data,'' 29 J. of Real Est. Res. 352 (2007).

institutions that are already not HMDA reporters, any indirect impact of the changes on consumers in rural areas would be limited, as the changes directly involve none of those financial institutions.

However, although some research suggests that HMDA currently does not cover a significant number of financial institutions serving the rural housing market, HMDA data do contain information for some covered loans involving properties in rural areas. These data can be used to estimate the number of HMDA reporters servicing rural areas, and the number of consumers in rural areas that might potentially be affected by the changes to Regulation C. For this analysis, the Bureau uses non-MSA areas as a proxy for rural areas, with the understanding that portions of MSAs and non-MSAs may contain urban and rural territory and populations. In 2017, 5,207 HMDA reporters reported applications or purchased loans for property located in geographic areas outside of an MSA. In total, these 5,207 financial institutions reported 1,794,248 applications or purchased loans for properties in non-MSA areas. This number provides an upper-bound estimate of the number of consumers in rural areas that could be impacted indirectly by the changes. In general, individual financial institutions report small numbers of covered loans from non-MSAs, as approximately 72 percent reported fewer than 100 covered loans from non-MSAs.

Following microeconomic principles, the Bureau believes that financial institutions will pass on reduced variable costs to future mortgage applicants, but absorb one-time costs and increased fixed costs if financial institutions are profit maximizers and the market is perfectly competitive.[167] The Bureau defines variable costs as costs that depend on the number of applications received. Based on initial outreach efforts, the following five operational steps affect variable costs: Transcribing data, resolving reportability questions, transferring data to an HMS, geocoding, and researching questions. The primary impact of the final rule on these operational steps is a reduction in time spent per task. Overall, the Bureau estimates that the impact of the final rule on variable costs per application is to reduce variable costs by no more than $42 for a representative tier 3 financial institution, $6 for a representative tier 2 financial institution, and $3 for a representative tier 1 financial institution.[168] The 5,507 financial institutions that serviced rural areas could attempt to pass these reduced variable costs on to all future mortgage customers, including the estimated 1.8 million consumers from rural areas. Amortized over the life of the loan, this expense would represent a negligible reduction in the cost of a mortgage loan. The Bureau notes that the market structure in the consumer mortgage lending market may differ from that of a perfectly competitive market (for instance due to information asymmetry between lenders and borrowers) in which case the pass-through to the consumers would most likely be smaller than the pass-through under the perfect competition assumption.[169] Therefore, the Bureau does not anticipate any material adverse effect on credit access in the long or short term even if these financial institutions pass on these reduced costs to consumers.

The rural market may differ from non-rural markets in terms of market structure, demand, supply, and competition level. For instance some rural markets may be more likely to be served by local or community banks than a large number of national lenders. Therefore, consumers in rural areas may experience benefits and costs from the final rule that are different than those experienced by consumers in general. To the extent that the impacts of the final rule on creditors differ by type of creditor, this may affect the costs and benefits of the May 2019 Proposal on consumers in rural areas.

VIII. Final Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act[170] as amended by the Small Business Regulatory Enforcement Fairness Act of 1996[171] (RFA) requires each agency to consider the potential impact of its regulations on small entities, including small businesses, small governmental units, and small not-for-profit organizations.[172] The RFA defines a ''small business'' as a business that meets the size standard developed by the Small Business Administration pursuant to the Small Business Act.[173]

The RFA generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) of any rule subject to notice-and-comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.[174] The Bureau also is subject to certain additional procedures under the RFA involving the convening of a panel to consult with small business representatives prior to proposing a rule for which an IRFA is required.[175]

As discussed above, this final rule incorporates the interpretations and procedures from the 2018 HMDA Rule into Regulation C and further implements section 104(a) of the EGRRCPA, which grants eligible financial institutions partial exemptions from HMDA's requirements for certain transactions; and it extends the temporary threshold of 500 open-end lines of credit for reporting data about open-end lines of credit for two years. The section 1022(b)(2) analysis above describes how this final rule reduces the costs and burdens on covered persons, including small entities. Additionally, as described in the analysis above, a small entity that is in compliance with the law at such time when this final rule takes effect does not need to take any additional action to remain in compliance other than choosing to switch off all or parts of reporting systems and functions. Based on these considerations, the final rule does not have a significant economic impact on any small entities.

Accordingly, the undersigned hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Thus, neither an FRFA nor a small business review panel is required for this final rule.

IX. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,*

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[167] If markets are not perfectly competitive or financial institutions are not profit maximizers, then what financial institutions pass on may differ. For example, they may attempt to pass on one-time costs and increases in fixed costs, or they may not be able to pass on variable costs.

[168] These cost estimates represent the highest estimates among the estimates presented in previous sections and form the upper bound of possible savings.

[169] The further the market moves away from a perfectly competitive market, the smaller the pass-through would be.

[170] Public Law 96–354, 94 Stat. 1164 (1980).

[171] Public Law 104–21, section 241, 110 Stat. 847, 864–65 (1996).

[172] 5 U.S.C. 601–612. The term '' 'small organization' means any not-for-profit enterprise which is independently owned and operated and is not dominant in its field, unless an agency establishes [an alternative definition under notice and comment].'' 5 U.S.C. 601(4). The term '' 'small governmental jurisdiction' means governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand, unless an agency establishes [an alternative definition after notice and comment].'' 5 U.S.C. 601(5).

[173] 5 U.S.C. 601(3). The Bureau may establish an alternative definition after consulting with the Small Business Administration and providing an opportunity for public comment. *Id.*

[174] 5 U.S.C. 601–612.

[175] 5 U.S.C. 609.

Federal agencies are generally required to seek approval from the Office of Management and Budget (OMB) for information collection requirements prior to implementation. Under the PRA, the Bureau may not conduct or sponsor, and, notwithstanding any other provision of law, a person is not required to respond to, an information collection unless the information collection displays a valid control number assigned by OMB.

The final rule amends 12 CFR part 1003 (Regulation C), which implements HMDA. The Bureau's OMB control number for Regulation C is 3170–0008. This final rule revises the information collection requirements contained in Regulation C that are currently approved by OMB under that OMB control number as follows: (1) Extends for two years Regulation C's current temporary threshold of 500 open-end lines of credit for open-end institutional and transactional coverage, and (2) implements the new, separate EGRRCPA partial exemptions that apply to some HMDA reporting requirements.

As of October 29, 2019: These revised collections of information have been submitted to OMB for review under section 3507(d) of the PRA. A complete description of the information collection requirements, including the burden estimate methods, is provided in the information collection request (ICR) that the Bureau has submitted to OMB under the requirements of the PRA. The ICR submitted to OMB requesting approval under the PRA for the information collection requirements contained herein is available at *www.regulations.gov* as well as OMB's public-facing docket at *www.reginfo.gov.*

Title of Collection: Home Mortgage Disclosure Act (Regulation C).

OMB Control Number: 3170–0008.

Type of Review: Revision of a currently approved information collection.

Affected Public: Private Sector.

Estimated Number of Respondents: 135.

Estimated Total Annual Burden Hours: 1,500,000.

Pursuant to 44 U.S.C. 3507, the Bureau will publish a separate notice in the **Federal Register** announcing OMB's action on these submissions, including the OMB control number and expiration date.

The Bureau has a continuing interest in the public's opinion of its collections of information. At any time, comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, may be sent to the Consumer Financial Protection Bureau (Attention: PRA Office), 1700 G Street NW, Washington, DC 20552, or by email to *PRA_Comments@cfpb.gov.*

X. Congressional Review Act

Pursuant to the Congressional Review Act,[176] the Bureau will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to the rule's published effective date. The Office of Information and Regulatory Affairs has designated this rule as not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 12 CFR Part 1003

Banks, Banking, Credit unions, Mortgages, National banks, Reporting and recordkeeping requirements, Savings associations.

Authority and Issuance

For the reasons set forth above, the Bureau amends Regulation C, 12 CFR part 1003, as follows:

PART 1003—HOME MORTGAGE DISCLOSURE (REGULATION C)

■ 1. The authority citation for part 1003 continues to read as follows:

Authority: 12 U.S.C. 2803, 2804, 2805, 5512, 5581.

■ 2. Effective January 1, 2020, § 1003.2, as amended at 82 FR 43088, September 13, 2017, is further amended by revising paragraphs (g)(1)(v)(B) and (g)(2)(ii)(B) to read as follows:

§ 1003.2 Definitions.

* * * * *

(g) * * *

(1) * * *

(v) * * *

(B) In each of the two preceding calendar years, originated at least 500 open-end lines of credit that are not excluded from this part pursuant to § 1003.3(c)(1) through (10); and

(2) * * *

(ii) * * *

(B) In each of the two preceding calendar years, originated at least 500 open-end lines of credit that are not excluded from this part pursuant to § 1003.3(c)(1) through (10).

* * * * *

■ 3. Effective January 1, 2020, § 1003.3, as amended at 82 FR 43088, September 13, 2017, is further amended by revising the section heading and paragraph (c)(12) and adding paragraph (d) to read as follows:

[176] 5 U.S.C. 801 *et seq.*

§ 1003.3 Exempt institutions and excluded and partially exempt transactions.

* * * * *

(c) * * *

(12) An open-end line of credit, if the financial institution originated fewer than 500 open-end lines of credit in either of the two preceding calendar years; a financial institution may collect, record, report, and disclose information, as described in §§ 1003.4 and 1003.5, for such an excluded open-end line of credit as though it were a covered loan, provided that the financial institution complies with such requirements for all applications for open-end lines of credit that it receives, open-end lines of credit that it originates, and open-end lines of credit that it purchases that otherwise would have been covered loans during the calendar year during which final action is taken on the excluded open-end line of credit; or

* * * * *

(d) *Partially exempt transactions.* (1) For purposes of this paragraph (d), the following definitions apply:

(i) *Insured credit union* means an insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752).

(ii) *Insured depository institution* means an insured depository institution as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(iii) *Optional data* means the data identified in § 1003.4(a)(1)(i), (a)(9)(i), and (a)(12), (15) through (30), and (32) through (38).

(iv) *Partially exempt transaction* means a covered loan or application that is partially exempt under paragraph (d)(2) or (3) of this section.

(2) Except as provided in paragraph (d)(6) of this section, an insured depository institution or insured credit union that, in each of the two preceding calendar years, originated fewer than 500 closed-end mortgage loans that are not excluded from this part pursuant to paragraphs (c)(1) through (10) or paragraph (c)(13) of this section is not required to collect, record, or report optional data as defined in paragraph (d)(1)(iii) of this section for applications for closed-end mortgage loans that it receives, closed-end mortgage loans that it originates, and closed-end mortgage loans that it purchases.

(3) Except as provided in paragraph (d)(6) of this section, an insured depository institution or insured credit union that, in each of the two preceding calendar years, originated fewer than 500 open-end lines of credit that are not excluded from this part pursuant to paragraphs (c)(1) through (10) of this

section is not required to collect, record, or report optional data as defined in paragraph (d)(1)(iii) of this section for applications for open-end lines of credit that it receives, open-end lines of credit that it originates, and open-end lines of credit that it purchases.

(4) A financial institution eligible for a partial exemption under paragraph (d)(2) or (3) of this section may collect, record, and report optional data as defined in paragraph (d)(1)(iii) of this section for a partially exempt transaction as though the institution were required to do so, provided that:

(i) If the institution reports the street address, city name, or Zip Code for the property securing a covered loan, or in the case of an application, proposed to secure a covered loan pursuant to § 1003.4(a)(9)(i), it reports all data that would be required by § 1003.4(a)(9)(i) if the transaction were not partially exempt;

(ii) If the institution reports any data for the transaction pursuant to § 1003.4(a)(15), (16), (17), (27), (33), or (35), it reports all data that would be required by § 1003.4(a)(15), (16), (17), (27), (33), or (35), respectively, if the transaction were not partially exempt.

(5) If, pursuant to paragraph (d)(2) or (3) of this section, a financial institution does not report a universal loan identifier (ULI) pursuant to § 1003.4(a)(1)(i) for an application for a covered loan that it receives, a covered loan that it originates, or a covered loan that it purchases, the financial institution shall assign and report a non-universal loan identifier (NULI). The NULI must be composed of up to 22 characters to identify the covered loan or application, which:

(i) May be letters, numerals, or a combination of letters and numerals;

(ii) Must be unique within the annual loan/application register in which the covered loan or application is included; and

(iii) Must not include any information that could be used to directly identify the applicant or borrower.

(6) Paragraphs (d)(2) and (3) of this section do not apply to an insured depository institution that, as of the preceding December 31, had received a rating of ''needs to improve record of meeting community credit needs'' during each of its two most recent examinations or a rating of ''substantial noncompliance in meeting community credit needs'' on its most recent examination under section 807(b)(2) of the Community Reinvestment Act of 1977 (12 U.S.C. 2906(b)(2)).

■ 4. Effective January 1, 2020, § 1003.4 is amended by revising paragraphs (a) introductory text, (a)(1)(i) introductory text, and (e) to read as follows:

§ 1003.4 Compilation of reportable data.

(a) *Data format and itemization.* A financial institution shall collect data regarding applications for covered loans that it receives, covered loans that it originates, and covered loans that it purchases for each calendar year. A financial institution shall collect data regarding requests under a preapproval program, as defined in § 1003.2(b)(2), only if the preapproval request is denied, is approved by the financial institution but not accepted by the applicant, or results in the origination of a home purchase loan. Except as provided in § 1003.3(d), the data collected shall include the following items:

(1)(i) A universal loan identifier (ULI) or, for a partially exempt transaction under § 1003.3(d), either a ULI or a non-universal loan identifier (NULI) as described in § 1003.3(d)(5) for the covered loan or application that can be used to identify and retrieve the covered loan or application file. Except for a purchased covered loan or application described in paragraphs (a)(1)(i)(D) and (E) of this section or a partially exempt transaction for which a NULI is assigned and reported under § 1003.3(d), the financial institution shall assign and report a ULI that:

* * * * *

(e) *Data reporting for banks and savings associations that are required to report data on small business, small farm, and community development lending under CRA.* Banks and savings associations that are required to report data on small business, small farm, and community development lending under regulations that implement the Community Reinvestment Act of 1977 (12 U.S.C. 2901 *et seq.*) shall also collect the information required by paragraph (a)(9)(ii) of this section for property located outside MSAs and MDs in which the institution has a home or branch office, or outside any MSA.

* * * * *

■ 5. Effective January 1, 2020, supplement I to part 1003, as amended at 82 FR 43088, September 13, 2017, is further amended as follows:

■ a. Under *Section 1003.2—Definitions,* revise *2(g) Financial Institution.*

■ b. Revise the heading to *Section 1003.3.*

■ c. Under *Section 1003.3:*

■ i. Revise *Paragraph 3(c)(12).*

■ iii. Add paragraph *3(d) Partially exempt transactions* after paragraph *3(c)(13).*

■ d. Under Section 1003.4—Compilation of Reportable Data, revise 4(a) Data Format and Itemization.

The revisions and addition read as follows:

Supplement I to Part 1003—Official Interpretations

* * * * *

Section 1003.2—Definitions

* * * * *

2(g) Financial Institution

1. *Preceding calendar year and preceding December 31.* The definition of financial institution refers both to the preceding calendar year and the preceding December 31. These terms refer to the calendar year and the December 31 preceding the current calendar year. For example, in 2019, the preceding calendar year is 2018 and the preceding December 31 is December 31, 2018. Accordingly, in 2019, Financial Institution A satisfies the asset-size threshold described in § 1003.2(g)(1)(i) if its assets exceeded the threshold specified in comment 2(g)–2 on December 31, 2018. Likewise, in 2020, Financial Institution A does not meet the loan-volume test described in § 1003.2(g)(1)(v)(A) if it originated fewer than 25 closed-end mortgage loans during either 2018 or 2019.

2. [Reserved]

3. *Merger or acquisition—coverage of surviving or newly formed institution.* After a merger or acquisition, the surviving or newly formed institution is a financial institution under § 1003.2(g) if it, considering the combined assets, location, and lending activity of the surviving or newly formed institution and the merged or acquired institutions or acquired branches, satisfies the criteria included in § 1003.2(g). For example, A and B merge. The surviving or newly formed institution meets the loan threshold described in § 1003.2(g)(1)(v)(B) if the surviving or newly formed institution, A, and B originated a combined total of at least 500 open-end lines of credit in each of the two preceding calendar years. Likewise, the surviving or newly formed institution meets the asset-size threshold in § 1003.2(g)(1)(i) if its assets and the combined assets of A and B on December 31 of the preceding calendar year exceeded the threshold described in § 1003.2(g)(1)(i). Comment 2(g)–4 discusses a financial institution's responsibilities during the calendar year of a merger.

4. *Merger or acquisition—coverage for calendar year of merger or acquisition.* The scenarios described below illustrate a financial institution's responsibilities for the calendar year of a merger or acquisition. For purposes of these illustrations, a ''covered institution'' means a financial institution, as defined in § 1003.2(g), that is not exempt from reporting under § 1003.3(a), and ''an institution that is not covered'' means either an institution that is not a financial institution, as defined in § 1003.2(g), or an institution that is exempt from reporting under § 1003.3(a).

i. Two institutions that are not covered merge. The surviving or newly formed institution meets all of the requirements necessary to be a covered institution. No data collection is required for the calendar year of the merger (even though the merger creates an institution that meets all of the requirements necessary to be a covered institution). When a branch office of an institution that is not covered is acquired by another institution that is not covered, and the acquisition results in a covered institution, no data collection is required for the calendar year of the acquisition.

ii. A covered institution and an institution that is not covered merge. The covered institution is the surviving institution, or a new covered institution is formed. For the calendar year of the merger, data collection is required for covered loans and applications handled in the offices of the merged institution that was previously covered and is optional for covered loans and applications handled in offices of the merged institution that was previously not covered. When a covered institution acquires a branch office of an institution that is not covered, data collection is optional for covered loans and applications handled by the acquired branch office for the calendar year of the acquisition.

iii. A covered institution and an institution that is not covered merge. The institution that is not covered is the surviving institution, or a new institution that is not covered is formed. For the calendar year of the merger, data collection is required for covered loans and applications handled in offices of the previously covered institution that took place prior to the merger. After the merger date, data collection is optional for covered loans and applications handled in the offices of the institution that was previously covered. When an institution remains not covered after acquiring a branch office of a covered institution, data collection is required for transactions of the acquired branch office that take place prior to the acquisition. Data collection by the acquired branch office is optional for transactions taking place in the remainder of the calendar year after the acquisition.

iv. Two covered institutions merge. The surviving or newly formed institution is a covered institution. Data collection is required for the entire calendar year of the merger. The surviving or newly formed institution files either a consolidated submission or separate submissions for that calendar year. When a covered institution acquires a branch office of a covered institution, data collection is required for the entire calendar year of the merger. Data for the acquired branch office may be submitted by either institution.

5. *Originations.* Whether an institution is a financial institution depends in part on whether the institution originated at least 25 closed-end mortgage loans in each of the two preceding calendar years or at least 500 open-end lines of credit in each of the two preceding calendar years. Comments 4(a)–2 through –4 discuss whether activities with respect to a particular closed-end mortgage loan or open-end line of credit constitute an origination for purposes of § 1003.2(g).

6. *Branches of foreign banks—treated as banks.* A Federal branch or a State-licensed or insured branch of a foreign bank that meets the definition of a ''bank'' under section 3(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)) is a bank for the purposes of § 1003.2(g).

7. *Branches and offices of foreign banks and other entities—treated as nondepository financial institutions.* A Federal agency, State-licensed agency, State-licensed uninsured branch of a foreign bank, commercial lending company owned or controlled by a foreign bank, or entity operating under section 25 or 25A of the Federal Reserve Act, 12 U.S.C. 601 and 611 (Edge Act and agreement corporations) may not meet the definition of ''bank'' under the Federal Deposit Insurance Act and may thereby fail to satisfy the definition of a depository financial institution under § 1003.2(g)(1). An entity is nonetheless a financial institution if it meets the definition of nondepository financial institution under § 1003.2(g)(2).

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Section 1003.3—Exempt Institutions and Excluded and Partially Exempt Transactions

* * * * *

3(c) Excluded Transactions

* * * * *

Paragraph 3(c)(12)

1. *General.* Section 1003.3(c)(12) provides that an open-end line of credit is an excluded transaction if a financial institution originated fewer than 500 open-end lines of credit in either of the two preceding calendar years. For example, assume that a bank is a financial institution in 2020 under § 1003.2(g) because it originated 50 closed-end mortgage loans in 2018, 75 closed-end mortgage loans in 2019, and met all of the other requirements under § 1003.2(g)(1). Also assume that the bank originated 75 and 85 open-end lines of credit in 2018 and 2019, respectively. The closed-end mortgage loans that the bank originated or purchased, or for which it received applications, during 2020 are covered loans and must be reported, unless they otherwise are excluded transactions under § 1003.3(c). However, the open-end lines of credit that the bank originated or purchased, or for which it received applications, during 2020 are excluded transactions under § 1003.3(c)(12) and need not be reported. See comments 4(a)–2 through –4 for guidance about the activities that constitute an origination.

2. *Optional reporting.* A financial institution may report applications for, originations of, or purchases of open-end lines of credit that are excluded transactions because the financial institution originated fewer than 500 open-end lines of credit in either of the two preceding calendar years. However, a financial institution that chooses to report such excluded applications for, originations of, or purchases of open-end lines of credit must report all such applications for open-end lines of credit which it receives, open-end lines of credit that it originates, and open-end lines of credit that it purchases that otherwise would be covered loans for a given calendar year. Note that applications which remain pending at the end of a calendar year are not reported, as described in comment 4(a)(8)(i)–14.

* * * * *

3(d) Partially Exempt Transactions

1. *Merger or acquisition—application of partial exemption thresholds to surviving or newly formed institution.* After a merger or acquisition, the surviving or newly formed institution falls below the loan threshold described in § 1003.3(d)(2) or (3) if it, considering the combined lending activity of the surviving or newly formed institution and the merged or acquired institutions or acquired branches, falls below the loan threshold described in § 1003.3(d)(2) or (3). For example, A and B merge. The surviving or newly formed institution falls below the loan threshold described in § 1003.3(d)(2) if the surviving or newly formed institution, A, and B originated a combined total of fewer than 500 closed-end mortgage loans that are not excluded from this part pursuant to § 1003.3(c)(1) through (10) or (c)(13) in each of the two preceding calendar years. Comment 3(d)–3 discusses eligibility for partial exemptions during the calendar year of a merger.

2. *Merger or acquisition—Community Reinvestment Act examination history.* After a merger or acquisition, the surviving or newly formed institution is deemed to be ineligible for the partial exemptions pursuant to § 1003.3(d)(6) if either it or any of the merged or acquired institutions received a rating of ''needs to improve record of meeting community credit needs'' during each of its two most recent examinations or a rating of ''substantial noncompliance in meeting community credit needs'' on its most recent examination under section 807(b)(2) of the Community Reinvestment Act of 1977 (12 U.S.C. 2906(b)(2)). Comment 3(d)–3.iii discusses eligibility for partial exemptions during the calendar year of a merger when an institution that is eligible for a partial exemption merges with an institution that is ineligible for the partial exemption (including, for example, an institution that is ineligible for the partial exemptions pursuant to § 1003.3(d)(6)) and the surviving or newly formed institution is ineligible for the partial exemption.

3. *Merger or acquisition—applicability of partial exemptions during calendar year of merger or acquisition.* The scenarios described below illustrate the applicability of partial exemptions under § 1003.3(d) during the calendar year of a merger or acquisition. For purposes of these illustrations, ''institution'' means a financial institution, as defined in § 1003.2(g), that is not exempt from reporting under § 1003.3(a). Although the scenarios below refer to the partial exemption for closed-end mortgage loans under § 1003.3(d)(2), the same principles apply with respect to the partial exemption for open-end lines of credit under § 1003.3(d)(3).

i. Assume two institutions that are eligible for the partial exemption for closed-end mortgage loans merge and the surviving or newly formed institution meets all of the requirements for the partial exemption. The partial exemption for closed-end mortgage loans applies for the calendar year of the merger.

ii. Assume two institutions that are eligible for the partial exemption for closed-end mortgage loans merge and the surviving or newly formed institution does not meet the requirements for the partial exemption. Collection of optional data for closed-end mortgage loans is permitted but not required for the calendar year of the merger (even though the merger creates an institution that does not meet the requirements for the partial exemption for closed-end mortgage loans). When a branch office of an institution that is eligible for the partial exemption is acquired by another institution that is eligible for the partial exemption, and the acquisition results in an institution that is not eligible for the partial exemption, data collection for closed-end mortgage loans is permitted but not required for the calendar year of the acquisition.

iii. Assume an institution that is eligible for the partial exemption for closed-end mortgage loans merges with an institution that is ineligible for the partial exemption and the surviving or newly formed institution is ineligible for the partial exemption. For the calendar year of the merger, collection of optional data as defined in § 1003.3(d)(1)(iii) for closed-end mortgage loans is required for covered loans and applications handled in the offices of the merged institution that was previously ineligible for the partial exemption. For the calendar year of the merger, collection of optional data for closed-end mortgage loans is permitted but not required for covered loans and applications handled in the offices of the merged institution that was previously eligible for the partial exemption. When an institution that is ineligible for the partial exemption for closed-end mortgage loans acquires a branch office of an institution that is eligible for the partial exemption, collection of optional data for closed-end mortgage loans is permitted but not required for covered loans and applications handled by the acquired branch office for the calendar year of the acquisition.

iv. Assume an institution that is eligible for the partial exemption for closed-end mortgage loans merges with an institution that is ineligible for the partial exemption and the surviving or newly formed institution is eligible for the partial exemption. For the calendar year of the merger, collection of optional data for closed-end mortgage loans is required for covered loans and applications handled in the offices of the previously ineligible institution that took place prior to the merger. After the merger date, collection of optional data for closed-end mortgage loans is permitted but not required for covered loans and applications handled in the offices of the institution that was previously ineligible for the partial exemption. When an institution remains eligible for the partial exemption for closed-end mortgage loans after acquiring a branch office of an institution that is ineligible for the partial exemption, collection of optional data for closed-end mortgage loans is required for transactions of the acquired branch office that take place prior to the acquisition. Collection of optional data for closed-end mortgage loans by the acquired branch office is permitted but not required for transactions taking place in the remainder of the calendar year after the acquisition.

4. *Originations.* Whether applications for covered loans that an insured depository institution or insured credit union receives, covered loans that it originates, or covered loans that it purchases are partially exempt transactions under § 1003.3(d) depends, in part, on whether the institution originated fewer than 500 closed-end mortgage loans that are not excluded from this part pursuant to § 1003.3(c)(1) through (10) or (c)(13) in each of the two preceding calendar years or fewer than 500 open-end lines of credit that are not excluded from this part pursuant to § 1003.3(c)(1) through (10) in each of the two preceding calendar years. See comments 4(a)–2 through –4 for guidance about the activities that constitute an origination for purposes of § 1003.3(d).

5. *Affiliates.* A financial institution that is not itself an insured credit union or an insured depository institution as defined in § 1003.3(d)(1)(i) and (ii) is not eligible for the partial exemptions under § 1003.3(d)(1) through (3), even if it is owned by or affiliated with an insured credit union or an insured depository institution. For example, an institution that is a subsidiary of an insured credit union or insured depository institution may not claim a partial exemption under § 1003.3(d) for its closed-end mortgage loans unless the subsidiary institution itself:

i. Is an insured credit union or insured depository institution,

ii. In each of the two preceding calendar years originated fewer than 500 closed-end mortgage loans that are not excluded from this part pursuant to § 1003.3(c)(1) through (10) or (c)(13), and

iii. If the subsidiary is an insured depository institution, had not received as of the preceding December 31 a rating of ''needs to improve record of meeting community credit needs'' during each of its two most recent examinations or a rating of ''substantial noncompliance in meeting community credit needs'' on its most recent examination under section 807(b)(2) of the Community Reinvestment Act of 1977 (12 U.S.C. 2906(b)(2)).

Paragraph 3(d)(1)(iii)

1. *Optional data.* The definition of optional data in § 1003.3(d)(1)(iii) identifies the data that are covered by the partial exemptions for certain transactions of insured depository institutions and insured credit unions under § 1003.3(d). If a transaction is not partially exempt under § 1003.3(d)(2) or (3), a financial institution must collect, record, and report optional data as otherwise required under this part.

Paragraph 3(d)(2)

1. *General.* Section 1003.3(d)(2) provides that, except as provided in § 1003.3(d)(6), an insured depository institution or insured credit union that, in each of the two preceding calendar years, originated fewer than 500 closed-end mortgage loans that are not excluded from this part pursuant to § 1003.3(c)(1) through (10) or (c)(13) is not required to collect, record, or report optional data as defined in § 1003.3(d)(1)(iii) for applications for closed-end mortgage loans that it receives, closed-end mortgage loans that it originates, and closed-end mortgage loans that it purchases. For example, assume that an insured credit union is a financial institution in 2020 under § 1003.2(g) and originated, in 2018 and 2019 respectively, 100 and 200 closed-end mortgage loans that are not excluded from this part pursuant to § 1003.3(c)(1) through (10) or (c)(13). The closed-end mortgage loans that the insured credit union originated or purchased, or for which it received applications, during 2020 are not excluded transactions under § 1003.3(c)(11). However, due to the partial exemption in § 1003.3(d)(2), the insured credit union is not required to collect, record, or report optional data as defined in § 1003.3(d)(1)(iii) for the closed-end mortgage loans that it originated or purchased, or for which it received applications, for which final action is taken during 2020. See comments 4(a)–2 through –4 for guidance about the activities that constitute an origination.

Paragraph 3(d)(3)

1. *General.* Section 1003.3(d)(3) provides that, except as provided in § 1003.3(d)(6), an insured depository institution or insured credit union that, in each of the two preceding calendar years, originated fewer than 500 open-end lines of credit that are not excluded from this part pursuant to § 1003.3(c)(1) through (10) is not required to collect, record, or report optional data as defined in § 1003.3(d)(1)(iii) for applications for open-end lines of credit that it receives, open-end lines of credit that it originates, and open-end lines of credit that it purchases. See § 1003.3(c)(12) and comments 3(c)(12)–1 and –2, which provide an exclusion for certain open-end lines of credit from this part and permit voluntary reporting of such transactions under certain circumstances. See also comments 4(a)–2 through –4 for guidance about the activities that constitute an origination.

Paragraph 3(d)(4)

1. *General.* Section 1003.3(d)(4) provides that an insured depository institution or insured credit union may collect, record, and report optional data as defined in § 1003.3(d)(1)(iii) for a partially exempt transaction as though the institution were required to do so, provided that, if an institution voluntarily reports any data pursuant to any of the seven paragraphs identified in § 1003.3(d)(4)(i) and (ii) (§ 1003.4(a)(9)(i) and (a)(15), (16), (17), (27), (33), and (35)), it also must report all other data for the covered loan or application that would be required by that applicable paragraph if the transaction were not partially exempt. For example, an insured depository institution or insured credit union may voluntarily report the existence of a balloon payment for a partially exempt transaction pursuant to § 1003.4(a)(27), but, if it does so, it must also report all other data for the transaction that would be required by § 1003.4(a)(27) if the transaction were not partially exempt (*i.e.,* whether the transaction has interest-only payments, negative amortization, or other non-amortizing features).

2. *Partially exempt transactions within the same loan/application register.* A financial

institution may collect, record, and report optional data for some partially exempt transactions under § 1003.3(d) in the manner specified in § 1003.3(d)(4), even if it does not collect, record, and report optional data for other partially exempt transactions under § 1003.3(d).

3. *Exempt or not applicable.* i. If a financial institution would otherwise report that a transaction is partially exempt pursuant to § 1003.3(d) and a particular requirement to report optional data is not applicable to the transaction, the insured depository institution or insured credit union complies with the particular requirement by reporting either that the transaction is exempt from the requirement or that the requirement is not applicable. For example, assume that an insured depository institution or insured credit union originates a partially exempt reverse mortgage. The requirement to report lender credits is not applicable to reverse mortgages, as comment 4(a)(20)–1 explains. Accordingly, the institution could report either exempt or not applicable for lender credits for the reverse mortgage transaction.

ii. An institution is considered as reporting data in a data field for purposes of § 1003.3(d)(4)(i) and (ii) when it reports not applicable for that data field for a partially exempt transaction. For example, assume an insured depository institution or insured credit union originates a covered loan that is eligible for a partial exemption and is made primarily for business or commercial purposes. The requirement to report total loan costs or total points and fees is not applicable to loans made primarily for business or commercial purposes, as comments 4(a)(17)(i)–1 and (ii)–1 explain. The institution can report not applicable for both total loan costs and total points and fees, or it can report exempt for both total loan costs and total points and fees for the loan. Pursuant to § 1003.3(d)(4)(ii), the institution is not permitted to report not applicable for total loan costs and report exempt for total points and fees for the business or commercial purpose loan.

Paragraph 3(d)(4)(i)

1. *State.* Section 1003.3(d)(4)(i) provides that if an institution eligible for a partial exemption under § 1003.3(d)(2) or (3) reports the street address, city name, or Zip Code for a partially exempt transaction pursuant to § 1003.4(a)(9)(i), it reports all data that would be required by § 1003.4(a)(9)(i) if the transaction were not partially exempt, including the State. An insured depository institution or insured credit union that reports the State pursuant to § 1003.4(a)(9)(ii) or comment 4(a)(9)(ii)–1 for a partially exempt transaction without reporting any other data required by § 1003.4(a)(9)(i) is not required to report the street address, city name, or Zip Code pursuant to § 1003.4(a)(9)(i).

Paragraph 3(d)(5)

1. *NULI—uniqueness.* For a partially exempt transaction under § 1003.3(d), a financial institution may report a ULI or a NULI. Section 1003.3(d)(5)(ii) requires an insured depository institution or insured credit union that assigns a NULI to a covered loan or application to ensure that the character sequence it assigns is unique within the institution's annual loan/application register in which it appears. A financial institution should assign only one NULI to any particular covered loan or application within each annual loan/application register, and each NULI should correspond to a single application and ensuing loan within the annual loan/application register in which the NULI appears in the case that the application is approved and a loan is originated. A financial institution may use a NULI more than once within an annual loan/application register only if the NULI refers to the same loan or application or a loan that ensues from an application referred to elsewhere in the annual loan/application register. Refinancings or applications for refinancing that are included in same annual loan/application register as the loan that is being refinanced should be assigned a different NULI than the loan that is being refinanced. An insured depository institution or insured credit union with multiple branches must ensure that its branches do not use the same NULI to refer to multiple covered loans or applications within the institution's same annual loan/application register.

2. *NULI—privacy.* Section 1003.3(d)(5)(iii) prohibits an insured depository institution or insured credit union from including information in the NULI that could be used to directly identify the applicant or borrower. Information that could be used to directly identify the applicant or borrower includes, but is not limited to, the applicant's or borrower's name, date of birth, Social Security number, official government-issued driver's license or identification number, alien registration number, government passport number, or employer or taxpayer identification number.

Paragraph 3(d)(6)

1. *Preceding calendar year.* Section 1003.3(d)(6) refers to the preceding December 31, which means the December 31 preceding the current calendar year. For example, in 2020, the preceding December 31 is December 31, 2019. Assume that, as of December 31, 2019, an insured depository institution received ratings of ''needs to improve record of meeting community credit needs'' during its two most recent examinations under section 807(b)(2) of the Community Reinvestment Act (12 U.S.C. 2906(b)(2)) in 2018 and 2014. Accordingly, in 2020, the insured depository institution's transactions are not partially exempt pursuant to § 1003.3(d).

Section 1003.4—Compilation of Reportable Data

4(a) Data Format and Itemization

1. *General.* Except as otherwise provided in § 1003.3, § 1003.4(a) describes a financial institution's obligation to collect data on applications it received, on covered loans that it originated, and on covered loans that it purchased during the calendar year covered by the loan/application register.

i. A financial institution reports these data even if the covered loans were subsequently sold by the institution.

ii. A financial institution reports data for applications that did not result in an origination but on which actions were taken—for example, an application that the institution denied, that it approved but that was not accepted, that it closed for incompleteness, or that the applicant withdrew during the calendar year covered by the loan/application register. A financial institution is required to report data regarding requests under a preapproval program (as defined in § 1003.2(b)(2)) only if the preapproval request is denied, results in the origination of a home purchase loan, or was approved but not accepted.

iii. If a financial institution acquires covered loans in bulk from another institution (for example, from the receiver for a failed institution), but no merger or acquisition of an institution, or acquisition of a branch office, is involved, the acquiring financial institution reports the covered loans as purchased loans.

iv. A financial institution reports the data for an application on the loan/application register for the calendar year during which the application was acted upon even if the institution received the application in a previous calendar year.

2. *Originations and applications involving more than one institution.* Section 1003.4(a) requires a financial institution to collect certain information regarding applications for covered loans that it receives and regarding covered loans that it originates. The following provides guidance on how to report originations and applications involving more than one institution. The discussion below assumes that all of the parties are financial institutions as defined by § 1003.2(g). The same principles apply if any of the parties is not a financial institution. Comment 4(a)–3 provides examples of transactions involving more than one institution, and comment 4(a)–4 discusses how to report actions taken by agents.

i. Only one financial institution reports each originated covered loan as an origination. If more than one institution was involved in the origination of a covered loan, the financial institution that made the credit decision approving the application before closing or account opening reports the loan as an origination. It is not relevant whether the loan closed or, in the case of an application, would have closed in the institution's name. If more than one institution approved an application prior to closing or account opening and one of those institutions purchased the loan after closing, the institution that purchased the loan after closing reports the loan as an origination. If a financial institution reports a transaction as an origination, it reports all of the information required for originations, even if the covered loan was not initially payable to the financial institution that is reporting the covered loan as an origination.

ii. In the case of an application for a covered loan that did not result in an origination, a financial institution reports the action it took on that application if it made a credit decision on the application or was reviewing the application when the application was withdrawn or closed for incompleteness. It is not relevant whether the financial institution received the application from the applicant or from another institution, such as a broker, or whether another financial institution also reviewed and reported an action taken on the same application.

3. *Examples—originations and applications involving more than one institution.* The following scenarios illustrate how an institution reports a particular application or covered loan. The illustrations assume that all of the parties are financial institutions as defined by § 1003.2(g). However, the same principles apply if any of the parties is not a financial institution.

i. Financial Institution A received an application for a covered loan from an applicant and forwarded that application to Financial Institution B. Financial Institution B reviewed the application and approved the loan prior to closing. The loan closed in Financial Institution A's name. Financial Institution B purchased the loan from Financial Institution A after closing. Financial Institution B was not acting as Financial Institution A's agent. Since Financial Institution B made the credit decision prior to closing, Financial Institution B reports the transaction as an origination, not as a purchase. Financial Institution A does not report the transaction.

ii. Financial Institution A received an application for a covered loan from an applicant and forwarded that application to Financial Institution B. Financial Institution B reviewed the application before the loan would have closed, but the application did not result in an origination because Financial Institution B denied the application. Financial Institution B was not acting as Financial Institution A's agent. Since Financial Institution B made the credit decision, Financial Institution B reports the application as a denial. Financial Institution A does not report the application. If, under the same facts, the application was withdrawn before Financial Institution B made a credit decision, Financial Institution B would report the application as withdrawn and Financial Institution A would not report the application.

iii. Financial Institution A received an application for a covered loan from an applicant and approved the application before closing the loan in its name. Financial Institution A was not acting as Financial Institution B's agent. Financial Institution B purchased the covered loan from Financial Institution A. Financial Institution B did not review the application before closing. Financial Institution A reports the loan as an origination. Financial Institution B reports the loan as a purchase.

iv. Financial Institution A received an application for a covered loan from an applicant. If approved, the loan would have closed in Financial Institution B's name. Financial Institution A denied the application without sending it to Financial Institution B for approval. Financial Institution A was not acting as Financial Institution B's agent. Since Financial Institution A made the credit decision before the loan would have closed, Financial Institution A reports the application. Financial Institution B does not report the application.

v. Financial Institution A reviewed an application and made the credit decision to approve a covered loan using the underwriting criteria provided by a third party (*e.g.,* another financial institution, Fannie Mae, or Freddie Mac). The third party did not review the application and did not make a credit decision prior to closing. Financial Institution A was not acting as the third party's agent. Financial Institution A reports the application or origination. If the third party purchased the loan and is subject to Regulation C, the third party reports the loan as a purchase whether or not the third party reviewed the loan after closing. Assume the same facts, except that Financial Institution A approved the application, and the applicant chose not to accept the loan from Financial Institution A. Financial Institution A reports the application as approved but not accepted and the third party, assuming the third party is subject to Regulation C, does not report the application.

vi. Financial Institution A reviewed and made the credit decision on an application based on the criteria of a third-party insurer or guarantor (for example, a government or private insurer or guarantor). Financial Institution A reports the action taken on the application.

vii. Financial Institution A received an application for a covered loan and forwarded it to Financial Institutions B and C. Financial Institution A made a credit decision, acting as Financial Institution D's agent, and approved the application. The applicant did not accept the loan from Financial Institution D. Financial Institution D reports the application as approved but not accepted. Financial Institution A does not report the application. Financial Institution B made a credit decision, approving the application, the applicant accepted the offer of credit from Financial Institution B, and credit was extended. Financial Institution B reports the origination. Financial Institution C made a credit decision and denied the application. Financial Institution C reports the application as denied.

4. *Agents.* If a financial institution made the credit decision on a covered loan or application through the actions of an agent, the institution reports the application or origination. State law determines whether one party is the agent of another. For example, acting as Financial Institution A's agent, Financial Institution B approved an application prior to closing and a covered loan was originated. Financial Institution A reports the loan as an origination.

5. *Purchased loans.* i. A financial institution is required to collect data regarding covered loans it purchases. For purposes of § 1003.4(a), a purchase includes a repurchase of a covered loan, regardless of whether the institution chose to repurchase the covered loan or was required to repurchase the covered loan because of a contractual obligation and regardless of whether the repurchase occurs within the same calendar year that the covered loan was originated or in a different calendar year. For example, assume that Financial Institution A originates or purchases a covered loan and then sells it to Financial Institution B, who later requires Financial Institution A to repurchase the covered loan pursuant to the relevant contractual obligations. Financial Institution B reports the purchase from Financial Institution A, assuming it is a financial institution as defined under § 1003.2(g). Financial Institution A reports the repurchase from Financial Institution B as a purchase.

ii. In contrast, for purposes of § 1003.4(a), a purchase does not include a temporary transfer of a covered loan to an interim funder or warehouse creditor as part of an interim funding agreement under which the originating financial institution is obligated to repurchase the covered loan for sale to a subsequent investor. Such agreements, often referred to as ''repurchase agreements,'' are sometimes employed as functional equivalents of warehouse lines of credit. Under these agreements, the interim funder or warehouse creditor acquires legal title to the covered loan, subject to an obligation of the originating institution to repurchase at a future date, rather than taking a security interest in the covered loan as under the terms of a more conventional warehouse line of credit. To illustrate, assume Financial Institution A has an interim funding agreement with Financial Institution B to enable Financial Institution B to originate loans. Assume further that Financial Institution B originates a covered loan and that, pursuant to this agreement, Financial Institution A takes a temporary transfer of the covered loan until Financial Institution B arranges for the sale of the covered loan to a subsequent investor and that Financial Institution B repurchases the covered loan to enable it to complete the sale to the subsequent investor (alternatively, Financial Institution A may transfer the covered loan directly to the subsequent investor at Financial Institution B's direction, pursuant to the interim funding agreement). The subsequent investor could be, for example, a financial institution or other entity that intends to hold the loan in portfolio, a GSE or other securitizer, or a financial institution or other entity that intends to package and sell multiple loans to a GSE or other securitizer. In this example, the temporary transfer of the covered loan from Financial Institution B to Financial Institution A is not a purchase, and any subsequent transfer back to Financial Institution B for delivery to the subsequent investor is not a purchase, for purposes of § 1003.4(a). Financial Institution B reports the origination of the covered loan as well as its sale to the subsequent investor. If the subsequent investor is a financial institution under § 1003.2(g), it reports a purchase of the covered loan pursuant to § 1003.4(a), regardless of whether it acquired the covered loan from Financial Institution B or directly from Financial Institution A.

Paragraph 4(a)(1)(i)

1. *ULI—uniqueness.* Section 1003.4(a)(1)(i)(B)(*2*) requires a financial institution that assigns a universal loan identifier (ULI) to each covered loan or application (except as provided in § 1003.4(a)(1)(i)(D) and (E)) to ensure that the character sequence it assigns is unique within the institution and used only for the covered loan or application. A financial institution should assign only one ULI to any

particular covered loan or application, and each ULI should correspond to a single application and ensuing loan in the case that the application is approved and a loan is originated. A financial institution may use a ULI that was reported previously to refer only to the same loan or application for which the ULI was used previously or a loan that ensues from an application for which the ULI was used previously. A financial institution may not report an application for a covered loan in 2030 using the same ULI that was reported for a covered loan that was originated in 2020. Similarly, refinancings or applications for refinancing should be assigned a different ULI than the loan that is being refinanced. A financial institution with multiple branches must ensure that its branches do not use the same ULI to refer to multiple covered loans or applications.

2. *ULI—privacy.* Section 1003.4(a)(1)(i)(B)(*3*) prohibits a financial institution from including information that could be used to directly identify the applicant or borrower in the identifier that it assigns for the application or covered loan of the applicant or borrower. Information that could be used to directly identify the applicant or borrower includes, but is not limited to, the applicant's or borrower's name, date of birth, Social Security number, official government-issued driver's license or identification number, alien registration number, government passport number, or employer or taxpayer identification number.

3. *ULI—purchased covered loan.* If a financial institution has previously assigned a covered loan with a ULI or reported a covered loan with a ULI under this part, a financial institution that purchases that covered loan must report the same ULI that was previously assigned or reported unless the purchase of the covered loan is a partially exempt transaction under § 1003.3(d). For example, if a financial institution that submits an annual loan/application register pursuant to § 1003.5(a)(1)(i) originates a covered loan that is purchased by a financial institution that also submits an annual loan/application register pursuant to § 1003.5(a)(1)(i), the financial institution that purchases the covered loan must report the purchase of the covered loan using the same ULI that was reported by the originating financial institution if the purchase is not a partially exempt transaction. If a financial institution that originates a covered loan has previously assigned the covered loan with a ULI under this part but has not yet reported the covered loan, a financial institution that purchases that covered loan must report the same ULI that was previously assigned if the purchase is not a partially exempt transaction. For example, if a financial institution that submits an annual loan/application register pursuant to § 1003.5(a)(1)(i) (Institution A) originates a covered loan that is purchased by a financial institution that submits a quarterly loan/application register pursuant to § 1003.5(a)(1)(ii) (Institution B) and Institution A assigned a ULI to the loan, then unless the purchase is a partially exempt transaction Institution B must report the ULI that was assigned by Institution A on Institution B's quarterly loan/application register pursuant to § 1003.5(a)(1)(ii), even though Institution A has not yet submitted its annual loan/application register pursuant to § 1003.5(a)(1)(i). A financial institution that purchases a covered loan and is ineligible for a partial exemption with respect to the purchased covered loan must assign it a ULI pursuant to § 1003.4(a)(1)(i) and report it pursuant to § 1003.5(a)(1)(i) or (ii), whichever is applicable, if the covered loan was not assigned a ULI by the financial institution that originated the loan because, for example, the loan was originated prior to January 1, 2018, the loan was originated by an institution not required to report under this part, or the loan was assigned a non-universal loan identifier (NULI) under § 1003.3(d)(5) rather than a ULI by the loan originator.

4. *ULI—reinstated or reconsidered application.* A financial institution may, at its option, report a ULI previously reported under this part if, during the same calendar year, an applicant asks the institution to reinstate a counteroffer that the applicant previously did not accept or asks the financial institution to reconsider an application that was previously denied, withdrawn, or closed for incompleteness. For example, if a financial institution reports a denied application in its second-quarter 2020 data submission, pursuant to § 1003.5(a)(1)(ii), but then reconsiders the application, resulting in an origination in the third quarter of 2020, the financial institution may report the origination in its third-quarter 2020 data submission using the same ULI that was reported for the denied application in its second-quarter 2020 data submission, so long as the financial institution treats the origination as the same transaction for reporting. However, a financial institution may not use a ULI previously reported if it reinstates or reconsiders an application that was reported in a prior calendar year. For example, if a financial institution reports a denied application that is not partially exempt in its fourth-quarter 2020 data submission, pursuant to § 1003.5(a)(1)(ii), but then reconsiders the application, resulting in an origination that is not partially exempt in the first quarter of 2021, the financial institution reports a denied application under the original ULI in its fourth-quarter 2020 data submission and an origination with a different ULI in its first-quarter 2021 data submission, pursuant to § 1003.5(a)(1)(ii).

5. *ULI—check digit.* Section 1003.4(a)(1)(i)(C) requires that the two right-most characters in the ULI represent the check digit. Appendix C prescribes the requirements for generating a check digit and validating a ULI.

6. *NULI.* For a partially exempt transaction under § 1003.3(d), a financial institution may report a ULI or a NULI. See § 1003.3(d)(5) and comments 3(d)(5)–1 and –2 for guidance on the NULI.

Paragraph 4(a)(1)(ii)

1. *Application date—consistency.* Section 1003.4(a)(1)(ii) requires that, in reporting the date of application, a financial institution report the date it received the application, as defined under § 1003.2(b), or the date shown on the application form. Although a financial institution need not choose the same approach for its entire HMDA submission, it should be generally consistent (such as by routinely using one approach within a particular division of the institution or for a category of loans). If the financial institution chooses to report the date shown on the application form and the institution retains multiple versions of the application form, the institution reports the date shown on the first application form satisfying the application definition provided under § 1003.2(b).

2. *Application date—indirect application.* For an application that was not submitted directly to the financial institution, the institution may report the date the application was received by the party that initially received the application, the date the application was received by the institution, or the date shown on the application form. Although an institution need not choose the same approach for its entire HMDA submission, it should be generally consistent (such as by routinely using one approach within a particular division of the institution or for a category of loans).

3. *Application date—reinstated application.* If, within the same calendar year, an applicant asks a financial institution to reinstate a counteroffer that the applicant previously did not accept (or asks the institution to reconsider an application that was denied, withdrawn, or closed for incompleteness), the institution may treat that request as the continuation of the earlier transaction using the same ULI or NULI or as a new transaction with a new ULI or NULI. If the institution treats the request for reinstatement or reconsideration as a new transaction, it reports the date of the request as the application date. If the institution does not treat the request for reinstatement or reconsideration as a new transaction, it reports the original application date.

Paragraph 4(a)(2)

1. *Loan type—general.* If a covered loan is not, or in the case of an application would not have been, insured by the Federal Housing Administration, guaranteed by the Department of Veterans Affairs, or guaranteed by the Rural Housing Service or the Farm Service Agency, an institution complies with § 1003.4(a)(2) by reporting the covered loan as not insured or guaranteed by the Federal Housing Administration, Department of Veterans Affairs, Rural Housing Service, or Farm Service Agency.

Paragraph 4(a)(3)

1. *Purpose—statement of applicant.* A financial institution may rely on the oral or written statement of an applicant regarding the proposed use of covered loan proceeds. For example, a lender could use a check-box or a purpose line on a loan application to determine whether the applicant intends to use covered loan proceeds for home improvement purposes. If an applicant provides no statement as to the proposed use of covered loan proceeds and the covered loan is not a home purchase loan, cash-out refinancing, or refinancing, a financial institution reports the covered loan as for a purpose other than home purchase, home improvement, refinancing, or cash-out refinancing for purposes of § 1003.4(a)(3).

2. *Purpose—refinancing and cash-out refinancing.* Section 1003.4(a)(3) requires a financial institution to report whether a covered loan is, or an application is for, a refinancing or a cash-out refinancing. A financial institution reports a covered loan or an application as a cash-out refinancing if it is a refinancing as defined by § 1003.2(p) and the institution considered it to be a cash-out refinancing in processing the application or setting the terms (such as the interest rate or origination charges) under its guidelines or an investor's guidelines. For example:

i. Assume a financial institution considers an application for a loan product to be a cash-out refinancing under an investor's guidelines because of the amount of cash received by the borrower at closing or account opening. Assume also that under the investor's guidelines, the applicant qualifies for the loan product and the financial institution approves the application, originates the covered loan, and sets the terms of the covered loan consistent with the loan product. In this example, the financial institution would report the covered loan as a cash-out refinancing for purposes of § 1003.4(a)(3).

ii. Assume a financial institution does not consider an application for a covered loan to be a cash-out refinancing under its own guidelines because the amount of cash received by the borrower does not exceed a certain threshold. Assume also that the institution approves the application, originates the covered loan, and sets the terms of the covered loan consistent with its own guidelines applicable to refinancings other than cash-out refinancings. In this example, the financial institution would report the covered loan as a refinancing for purposes of § 1003.4(a)(3).

iii. Assume a financial institution does not distinguish between a cash-out refinancing and a refinancing under its own guidelines, and sets the terms of all refinancings without regard to the amount of cash received by the borrower at closing or account opening, and does not offer loan products under investor guidelines. In this example, the financial institution reports all covered loans and applications for covered loans that are defined by § 1003.2(p) as refinancings for purposes of § 1003.4(a)(3).

3. *Purpose—multiple-purpose loan.* Section 1003.4(a)(3) requires a financial institution to report the purpose of a covered loan or application. If a covered loan is a home purchase loan as well as a home improvement loan, a refinancing, or a cash-out refinancing, an institution complies with § 1003.4(a)(3) by reporting the loan as a home purchase loan. If a covered loan is a home improvement loan as well as a refinancing or cash-out refinancing, but the covered loan is not a home purchase loan, an institution complies with § 1003.4(a)(3) by reporting the covered loan as a refinancing or a cash-out refinancing, as appropriate. If a covered loan is a refinancing or cash-out refinancing as well as for another purpose, such as for the purpose of paying educational expenses, but the covered loan is not a home purchase loan, an institution complies with § 1003.4(a)(3) by reporting the covered loan as a refinancing or a cash-out refinancing, as appropriate. *See* comment 4(a)(3)–2. If a covered loan is a home improvement loan as well as for another purpose, but the covered loan is not a home purchase loan, a refinancing, or cash-out refinancing, an institution complies with § 1003.4(a)(3) by reporting the covered loan as a home improvement loan. *See* comment 2(i)–1.

4. *Purpose—other.* If a covered loan is not, or an application is not for, a home purchase loan, a home improvement loan, a refinancing, or a cash-out refinancing, a financial institution complies with § 1003.4(a)(3) by reporting the covered loan or application as for a purpose other than home purchase, home improvement, refinancing, or cash-out refinancing. For example, if a covered loan is for the purpose of paying educational expenses, the financial institution complies with § 1003.4(a)(3) by reporting the covered loan as for a purpose other than home purchase, home improvement, refinancing, or cash-out refinancing. Section 1003.4(a)(3) also requires an institution to report a covered loan or application as for a purpose other than home purchase, home improvement, refinancing, or cash-out refinancing if it is a refinancing but, under the terms of the agreement, the financial institution was unconditionally obligated to refinance the obligation subject to conditions within the borrower's control.

5. *Purpose—business or commercial purpose loans.* If a covered loan primarily is for a business or commercial purpose as described in § 1003.3(c)(10) and comment 3(c)(10)–2 and is a home purchase loan, home improvement loan, or a refinancing, § 1003.4(a)(3) requires the financial institution to report the applicable loan purpose. If a loan primarily is for a business or commercial purpose but is not a home purchase loan, home improvement loan, or a refinancing, the loan is an excluded transaction under § 1003.3(c)(10).

6. *Purpose—purchased loans.* For purchased covered loans where origination took place prior to January 1, 2018, a financial institution complies with § 1003.4(a)(3) by reporting that the requirement is not applicable.

Paragraph 4(a)(4)

1. *Request under a preapproval program.* Section 1003.4(a)(4) requires a financial institution to report whether an application or covered loan involved a request for a preapproval of a home purchase loan under a preapproval program as defined by § 1003.2(b)(2). If an application or covered loan did not involve a request for a preapproval of a home purchase loan under a preapproval program as defined by § 1003.2(b)(2), a financial institution complies with § 1003.4(a)(4) by reporting that the application or covered loan did not involve such a request, regardless of whether the institution has such a program and the applicant did not apply through that program or the institution does not have a preapproval program as defined by § 1003.2(b)(2).

2. *Scope of requirement.* A financial institution reports that the application or covered loan did not involve a preapproval request for a purchased covered loan; an application or covered loan for any purpose other than a home purchase loan; an application for a home purchase loan or a covered loan that is a home purchase loan secured by a multifamily dwelling; an application or covered loan that is an open-end line of credit or a reverse mortgage; or an application that is denied, withdrawn by the applicant, or closed for incompleteness.

Paragraph 4(a)(5)

1. *Modular homes and prefabricated components.* Covered loans or applications related to modular homes should be reported with a construction method of site-built, regardless of whether they are on-frame or off-frame modular homes. Modular homes comply with local or other recognized buildings codes rather than standards established by the National Manufactured Housing Construction and Safety Standards Act, 42 U.S.C. 5401 *et seq.* Modular homes are not required to have HUD Certification Labels under 24 CFR 3280.11 or data plates under 24 CFR 3280.5. Modular homes may have a certification from a State licensing agency that documents compliance with State or other applicable building codes. On-frame modular homes are constructed on permanent metal chassis similar to those used in manufactured homes. The chassis are not removed on site and are secured to the foundation. Off-frame modular homes typically have floor construction similar to the construction of other site-built homes, and the construction typically includes wooden floor joists and does not include permanent metal chassis. Dwellings built using prefabricated components assembled at the dwelling's permanent site should also be reported with a construction method of site-built.

2. *Multifamily dwelling.* For a covered loan or an application for a covered loan related to a multifamily dwelling, the financial institution should report the construction method as site-built unless the multifamily dwelling is a manufactured home community, in which case the financial institution should report the construction method as manufactured home.

3. *Multiple properties.* See comment 4(a)(9)–2 regarding transactions involving multiple properties with more than one property taken as security.

Paragraph 4(a)(6)

1. *Multiple properties.* See comment 4(a)(9)–2 regarding transactions involving multiple properties with more than one property taken as security.

2. *Principal residence.* Section 1003.4(a)(6) requires a financial institution to identify whether the property to which the covered loan or application relates is or will be used as a residence that the applicant or borrower physically occupies and uses, or will occupy and use, as his or her principal residence. For purposes of § 1003.4(a)(6), an applicant or borrower can have only one principal residence at a time. Thus, a vacation or other second home would not be a principal residence. However, if an applicant or borrower buys or builds a new dwelling that will become the applicant's or borrower's principal residence within a year or upon the completion of construction, the new dwelling is considered the principal residence for

purposes of applying this definition to a particular transaction.

3. *Second residences.* Section 1003.4(a)(6) requires a financial institution to identify whether the property to which the loan or application relates is or will be used as a second residence. For purposes of § 1003.4(a)(6), a property is a second residence of an applicant or borrower if the property is or will be occupied by the applicant or borrower for a portion of the year and is not the applicant's or borrower's principal residence. For example, if a person purchases a property, occupies the property for a portion of the year, and rents the property for the remainder of the year, the property is a second residence for purposes of § 1003.4(a)(6). Similarly, if a couple occupies a property near their place of employment on weekdays, but the couple returns to their principal residence on weekends, the property near the couple's place of employment is a second residence for purposes of § 1003.4(a)(6).

4. *Investment properties.* Section 1003.4(a)(6) requires a financial institution to identify whether the property to which the covered loan or application relates is or will be used as an investment property. For purposes of § 1003.4(a)(6), a property is an investment property if the borrower does not, or the applicant will not, occupy the property. For example, if a person purchases a property, does not occupy the property, and generates income by renting the property, the property is an investment property for purposes of § 1003.4(a)(6). Similarly, if a person purchases a property, does not occupy the property, and does not generate income by renting the property, but intends to generate income by selling the property, the property is an investment property for purposes of § 1003.4(a)(6). Section 1003.4(a)(6) requires a financial institution to identify a property as an investment property if the borrower or applicant does not or will not occupy the property, even if the borrower or applicant does not consider the property as owned for investment purposes. For example, if a corporation purchases a property that is a dwelling under § 1003.2(f), that it does not occupy, but that is for the long-term residential use of its employees, the property is an investment property for purposes of § 1003.4(a)(6), even if the corporation considers the property as owned for business purposes rather than investment purposes, does not generate income by renting the property, and does not intend to generate income by selling the property at some point in time. If the property is for transitory use by employees, the property would not be considered a dwelling under § 1003.2(f). *See* comment 2(f)–3.

5. *Purchased covered loans.* For purchased covered loans, a financial institution may report principal residence unless the loan documents or application indicate that the property will not be occupied as a principal residence.

Paragraph 4(a)(7)

1. *Covered loan amount—counteroffer.* If an applicant accepts a counteroffer for an amount different from the amount for which the applicant applied, the financial institution reports the covered loan amount granted. If an applicant does not accept a counteroffer or fails to respond, the institution reports the amount initially requested.

2. *Covered loan amount—application approved but not accepted or preapproval request approved but not accepted.* A financial institution reports the covered loan amount that was approved.

3. *Covered loan amount—preapproval request denied, application denied, closed for incompleteness or withdrawn.* For a preapproval request that was denied, and for an application that was denied, closed for incompleteness, or withdrawn, a financial institution reports the amount for which the applicant applied.

4. *Covered loan amount—multiple-purpose loan.* A financial institution reports the entire amount of the covered loan, even if only a part of the proceeds is intended for home purchase, home improvement, or refinancing.

5. *Covered loan amount—closed-end mortgage loan.* For a closed-end mortgage loan, other than a purchased loan, an assumption, or a reverse mortgage, a financial institution reports the amount to be repaid as disclosed on the legal obligation. For a purchased closed-end mortgage loan or an assumption of a closed-end mortgage loan, a financial institution reports the unpaid principal balance at the time of purchase or assumption.

6. *Covered loan amount—open-end line of credit.* For an open-end line of credit, a financial institution reports the entire amount of credit available to the borrower under the terms of the open-end plan, including a purchased open-end line of credit and an assumption of an open-end line of credit, but not for a reverse mortgage open-end line of credit.

7. *Covered loan amount—refinancing.* For a refinancing, a financial institution reports the amount of credit extended under the terms of the new debt obligation.

8. *Covered loan amount—home improvement loan.* A financial institution reports the entire amount of a home improvement loan, even if only a part of the proceeds is intended for home improvement.

9. *Covered loan amount—non-federally insured reverse mortgage.* A financial institution reports the initial principal limit of a non-federally insured reverse mortgage as set forth in § 1003.4(a)(7)(iii).

Paragraph 4(a)(8)(i)

1. *Action taken—covered loan originated.* A financial institution reports that the covered loan was originated if the financial institution made a credit decision approving the application before closing or account opening and that credit decision results in an extension of credit. The same is true for an application that began as a request for a preapproval that subsequently results in a covered loan being originated. *See* comments 4(a)–2 through –4 for guidance on transactions in which more than one institution is involved.

2. *Action taken—covered loan purchased.* A financial institution reports that the covered loan was purchased if the covered loan was purchased by the financial institution after closing or account opening and the financial institution did not make a credit decision on the application prior to closing or account opening, or if the financial institution did make a credit decision on the application prior to closing or account opening, but is repurchasing the loan from another entity that the loan was sold to. *See* comment 4(a)–5. *See* comments 4(a)–2 through –4 for guidance on transactions in which more than one financial institution is involved.

3. *Action taken—application approved but not accepted.* A financial institution reports application approved but not accepted if the financial institution made a credit decision approving the application before closing or account opening, subject solely to outstanding conditions that are customary commitment or closing conditions, but the applicant or the party that initially received the application fails to respond to the financial institution's approval within the specified time, or the closed-end mortgage loan was not otherwise consummated or the account was not otherwise opened. *See* comment 4(a)(8)(i)–13.

4. *Action taken—application denied.* A financial institution reports that the application was denied if it made a credit decision denying the application before an applicant withdraws the application or the file is closed for incompleteness. *See* comments 4(a)–2 through –4 for guidance on transactions in which more than one institution is involved.

5. *Action taken—application withdrawn.* A financial institution reports that the application was withdrawn when the application is expressly withdrawn by the applicant before the financial institution makes a credit decision denying the application, before the financial institution makes a credit decision approving the application, or before the file is closed for incompleteness. A financial institution also reports application withdrawn if the financial institution provides a conditional approval specifying underwriting or creditworthiness conditions, pursuant to comment 4(a)(8)(i)–13, and the application is expressly withdrawn by the applicant before the applicant satisfies all specified underwriting or creditworthiness conditions. A preapproval request that is withdrawn is not reportable under HMDA. *See* § 1003.4(a).

6. *Action taken—file closed for incompleteness.* A financial institution reports that the file was closed for incompleteness if the financial institution sent a written notice of incompleteness under Regulation B, 12 CFR 1002.9(c)(2), and the applicant did not respond to the request for additional information within the period of time specified in the notice before the applicant satisfies all underwriting or creditworthiness conditions. *See* comment 4(a)(8)(i)–13. If a financial institution then provides a notification of adverse action on the basis of incompleteness under Regulation B, 12 CFR 1002.9(c)(1)(i), the financial institution may report the action taken as either file closed for incompleteness or application denied. A preapproval request that is closed for incompleteness is not reportable under HMDA. *See* § 1003.4(a) and comment 4(a)–1.ii.

7. *Action taken—preapproval request denied.* A financial institution reports that

the preapproval request was denied if the application was a request for a preapproval under a preapproval program as defined in § 1003.2(b)(2) and the institution made a credit decision denying the preapproval request.

8. *Action taken—preapproval request approved but not accepted.* A financial institution reports that the preapproval request was approved but not accepted if the application was a request for a preapproval under a preapproval program as defined in § 1003.2(b)(2) and the institution made a credit decision approving the preapproval request but the application did not result in a covered loan originated by the financial institution.

9. *Action taken—counteroffers.* If a financial institution makes a counteroffer to lend on terms different from the applicant's initial request (for example, for a shorter loan maturity, with a different interest rate, or in a different amount) and the applicant declines to proceed with the counteroffer or fails to respond, the institution reports the action taken as a denial on the original terms requested by the applicant. If the applicant agrees to proceed with consideration of the financial institution's counteroffer, the financial institution reports the action taken as the disposition of the application based on the terms of the counteroffer. For example, assume a financial institution makes a counteroffer, the applicant agrees to proceed with the terms of the counteroffer, and the financial institution then makes a credit decision approving the application conditional on satisfying underwriting or creditworthiness conditions, and the applicant expressly withdraws before satisfying all underwriting or creditworthiness conditions and before the institution denies the application or closes the file for incompleteness. The financial institution reports the action taken as application withdrawn in accordance with comment 4(a)(8)(i)–13.i. Similarly, assume a financial institution makes a counteroffer, the applicant agrees to proceed with consideration of the counteroffer, and the financial institution provides a conditional approval stating the conditions to be met to originate the counteroffer. The financial institution reports the action taken on the application in accordance with comment 4(a)(8)(i)–13 regarding conditional approvals.

10. *Action taken—rescinded transactions.* If a borrower rescinds a transaction after closing and before a financial institution is required to submit its loan/application register containing the information for the transaction under § 1003.5(a), the institution reports the transaction as an application that was approved but not accepted.

11. *Action taken—purchased covered loans.* An institution reports the covered loans that it purchased during the calendar year. An institution does not report the covered loans that it declined to purchase, unless, as discussed in comments 4(a)–2 through –4, the institution reviewed the application prior to closing, in which case it reports the application or covered loan according to comments 4(a)–2 through –4.

12. *Action taken—repurchased covered loans.* See comment 4(a)–5 regarding reporting requirements when a covered loan is repurchased by the originating financial institution.

13. *Action taken—conditional approvals.* If an institution issues an approval other than a commitment pursuant to a preapproval program as defined under § 1003.2(b)(2), and that approval is subject to the applicant meeting certain conditions, the institution reports the action taken as provided below dependent on whether the conditions are solely customary commitment or closing conditions or if the conditions include any underwriting or creditworthiness conditions.

i. *Action taken examples.* If the approval is conditioned on satisfying underwriting or creditworthiness conditions and they are not met, the institution reports the action taken as a denial. If, however, the conditions involve submitting additional information about underwriting or creditworthiness that the institution needs to make the credit decision, and the institution has sent a written notice of incompleteness under Regulation B, 12 CFR 1002.9(c)(2), and the applicant did not respond within the period of time specified in the notice, the institution reports the action taken as file closed for incompleteness. *See* comment 4(a)(8)(i)–6. If the conditions are solely customary commitment or closing conditions and the conditions are not met, the institution reports the action taken as approved but not accepted. If all the conditions (underwriting, creditworthiness, or customary commitment or closing conditions) are satisfied and the institution agrees to extend credit but the covered loan is not originated, the institution reports the action taken as application approved but not accepted. If the applicant expressly withdraws before satisfying all underwriting or creditworthiness conditions and before the institution denies the application or closes the file for incompleteness, the institution reports the action taken as application withdrawn. If all underwriting and creditworthiness conditions have been met, and the outstanding conditions are solely customary commitment or closing conditions and the applicant expressly withdraws before the covered loan is originated, the institution reports the action taken as application approved but not accepted.

ii. *Customary commitment or closing conditions.* Customary commitment or closing conditions include, for example: A clear-title requirement, an acceptable property survey, acceptable title insurance binder, clear termite inspection, a subordination agreement from another lienholder, and, where the applicant plans to use the proceeds from the sale of one home to purchase another, a settlement statement showing adequate proceeds from the sale.

iii. *Underwriting or creditworthiness conditions.* Underwriting or creditworthiness conditions include, for example: Conditions that constitute a counter-offer, such as a demand for a higher down-payment; satisfactory debt-to-income or loan-to-value ratios, a determination of need for private mortgage insurance, or a satisfactory appraisal requirement; or verification or confirmation, in whatever form the institution requires, that the applicant meets underwriting conditions concerning applicant creditworthiness, including documentation or verification of income or assets.

14. *Action taken—pending applications.* An institution does not report any covered loan application still pending at the end of the calendar year; it reports that application on its loan/application register for the year in which final action is taken.

Paragraph 4(a)(8)(ii)

1. *Action taken date—general.* A financial institution reports the date of the action taken.

2. *Action taken date—applications denied and files closed for incompleteness.* For applications, including requests for a preapproval, that are denied or for files closed for incompleteness, the financial institution reports either the date the action was taken or the date the notice was sent to the applicant.

3. *Action taken date—application withdrawn.* For applications withdrawn, the financial institution may report the date the express withdrawal was received or the date shown on the notification form in the case of a written withdrawal.

4. *Action taken date—approved but not accepted.* For a covered loan approved by an institution but not accepted by the applicant, the institution reports any reasonable date, such as the approval date, the deadline for accepting the offer, or the date the file was closed. Although an institution need not choose the same approach for its entire HMDA submission, it should be generally consistent (such as by routinely using one approach within a particular division of the institution or for a category of covered loans).

5. *Action taken date—originations.* For covered loan originations, including a preapproval request that leads to an origination by the financial institution, an institution generally reports the closing or account opening date. For covered loan originations that an institution acquires from a party that initially received the application, the institution reports either the closing or account opening date, or the date the institution acquired the covered loan from the party that initially received the application. If the disbursement of funds takes place on a date later than the closing or account opening date, the institution may use the date of initial disbursement. For a construction/permanent covered loan, the institution reports either the closing or account opening date, or the date the covered loan converts to the permanent financing. Although an institution need not choose the same approach for its entire HMDA submission, it should be generally consistent (such as by routinely using one approach within a particular division of the institution or for a category of covered loans). Notwithstanding this flexibility regarding the use of the closing or account opening date in connection with reporting the date action was taken, the institution must report the origination as occurring in the year in which the origination goes to closing or the account is opened.

6. *Action taken date—loan purchased.* For covered loans purchased, a financial institution reports the date of purchase.

Paragraph 4(a)(9)

1. *Multiple properties with one property taken as security.* If a covered loan is related to more than one property, but only one property is taken as security (or, in the case of an application, proposed to be taken as security), a financial institution reports the information required by § 1003.4(a)(9) for the property taken as or proposed to be taken as security. A financial institution does not report the information required by § 1003.4(a)(9) for the property or properties related to the loan that are not taken as or proposed to be taken as security. For example, if a covered loan is secured by property A, and the proceeds are used to purchase or rehabilitate (or to refinance home purchase or home improvement loans related to) property B, the institution reports the information required by § 1003.4(a)(9) for property A and does not report the information required by § 1003.4(a)(9) for property B.

2. *Multiple properties with more than one property taken as security.* If more than one property is taken or, in the case of an application, proposed to be taken as security for a single covered loan, a financial institution reports the covered loan or application in a single entry on its loan/application register and provides the information required by § 1003.4(a)(9) for one of the properties taken as security that contains a dwelling. A financial institution does not report information about the other properties taken as security. If an institution is required to report specific information about the property identified in § 1003.4(a)(9), the institution reports the information that relates to the property identified in § 1003.4(a)(9) (or, if the transaction is partially exempt under § 1003.3(d) and no data are reported pursuant to § 1003.4(a)(9), the property that the institution would have identified in § 1003.4(a)(9) if the transaction were not partially exempt). For example, Financial Institution A originated a covered loan that is secured by both property A and property B, each of which contains a dwelling. Financial Institution A reports the loan as one entry on its loan/application register, reporting the information required by § 1003.4(a)(9) for either property A or property B. If Financial Institution A elects to report the information required by § 1003.4(a)(9) about property A, Financial Institution A also reports the information required by § 1003.4(a)(5), (6), (14), (29), and (30) related to property A. For aspects of the entries that do not refer to the property identified in § 1003.4(a)(9) (*i.e.,* § 1003.4(a)(1) through (4), (7), (8), (10) through (13), (15) through (28), and (31) through (38)), Financial Institution A reports the information applicable to the covered loan or application and not information that relates only to the property identified in § 1003.4(a)(9).

3. *Multifamily dwellings.* A single multifamily dwelling may have more than one postal address. For example, three apartment buildings, each with a different street address, comprise a single multifamily dwelling that secures a covered loan. For the purposes of § 1003.4(a)(9), a financial institution reports the information required by § 1003.4(a)(9) in the same manner described in comment 4(a)(9)–2.

4. *Loans purchased from another institution.* The requirement to report the property location information required by § 1003.4(a)(9) applies not only to applications and originations but also to purchased covered loans.

5. *Manufactured home.* If the site of a manufactured home has not been identified, a financial institution complies by reporting that the information required by § 1003.4(a)(9) is not applicable.

Paragraph 4(a)(9)(i)

1. *General.* Except for partially exempt transactions under § 1003.3(d), § 1003.4(a)(9)(i) requires a financial institution to report the property address of the location of the property securing a covered loan or, in the case of an application, proposed to secure a covered loan. The address should correspond to the property identified on the legal obligation related to the covered loan. For applications that did not result in an origination, the address should correspond to the location of the property proposed to secure the loan as identified by the applicant. For example, assume a loan is secured by a property located at 123 Main Street, and the applicant's or borrower's mailing address is a post office box. The financial institution should not report the post office box, and should report 123 Main Street.

2. *Property address—format.* A financial institution complies with the requirements in § 1003.4(a)(9)(i) by reporting the following information about the physical location of the property securing the loan.

i. *Street address.* When reporting the street address of the property, a financial institution complies by including, as applicable, the primary address number, the predirectional, the street name, street prefixes and/or suffixes, the postdirectional, the secondary address identifier, and the secondary address, as applicable. For example, 100 N Main ST Apt 1.

ii. *City name.* A financial institution complies by reporting the name of the city in which the property is located.

iii. *State name.* A financial institution complies by reporting the two letter State code for the State in which the property is located, using the U.S. Postal Service official State abbreviations.

iv. *Zip Code.* A financial institution complies by reporting the five or nine digit Zip Code in which the property is located.

3. *Property address—not applicable.* A financial institution complies with § 1003.4(a)(9)(i) by reporting that the requirement is not applicable if the property address of the property securing the covered loan is not known. For example, if the property did not have a property address at closing or if the applicant did not provide the property address of the property to the financial institution before the application was denied, withdrawn, or closed for incompleteness, the financial institution complies with § 1003.4(a)(9)(i) by reporting that the requirement is not applicable.

Paragraph 4(a)(9)(ii)

1. *Optional reporting.* Section 1003.4(a)(9)(ii) requires a financial institution to report the State, county, and census tract of the property securing the covered loan or, in the case of an application, proposed to secure the covered loan if the property is located in an MSA or MD in which the financial institution has a home or branch office or if the institution is subject to § 1003.4(e). Section 1003.4(a)(9)(ii)(C) further limits the requirement to report census tract to covered loans secured by or applications proposed to be secured by properties located in counties with a population of more than 30,000 according to the most recent decennial census conducted by the U.S. Census Bureau. For transactions for which State, county, or census tract reporting is not required under § 1003.4(a)(9)(ii) or (e), financial institutions may report that the requirement is not applicable, or they may voluntarily report the State, county, or census tract information.

Paragraph 4(a)(9)(ii)(A)

1. *Applications—State not provided.* When reporting an application, a financial institution complies with § 1003.4(a)(9)(ii)(A) by reporting that the requirement is not applicable if the State in which the property is located was not known before the application was denied, withdrawn, or closed for incompleteness.

Paragraph 4(a)(9)(ii)(B)

1. *General.* A financial institution complies by reporting the five-digit Federal Information Processing Standards (FIPS) numerical county code.

2. *Applications—county not provided.* When reporting an application, a financial institution complies with § 1003.4(a)(9)(ii)(B) by reporting that the requirement is not applicable if the county in which the property is located was not known before the application was denied, withdrawn, or closed for incompleteness.

Paragraph 4(a)(9)(ii)(C)

1. *General.* Census tract numbers are defined by the U.S. Census Bureau. A financial institution complies with § 1003.4(a)(9)(ii)(C) if it uses the boundaries and codes in effect on January 1 of the calendar year covered by the loan/application register that it is reporting.

2. *Applications—census tract not provided.* When reporting an application, a financial institution complies with § 1003.4(a)(9)(ii)(C) by reporting that the requirement is not applicable if the census tract in which the property is located was not known before the application was denied, withdrawn, or closed for incompleteness.

Paragraph 4(a)(10)(i)

1. *Applicant data—general.* Refer to appendix B to this part for instructions on collection of an applicant's ethnicity, race, and sex.

2. *Transition rule for applicant data collected prior to January 1, 2018.* If a financial institution receives an application prior to January 1, 2018, but final action is taken on or after January 1, 2018, the financial institution complies with

§ 1003.4(a)(10)(i) and (b) if it collects the information in accordance with the requirements in effect at the time the information was collected. For example, if a financial institution receives an application on November 15, 2017, collects the applicant's ethnicity, race, and sex in accordance with the instructions in effect on that date, and takes final action on the application on January 5, 2018, the financial institution has complied with the requirements of § 1003.4(a)(10)(i) and (b), even though those instructions changed after the information was collected but before the date of final action. However, if, in this example, the financial institution collected the applicant's ethnicity, race, and sex on or after January 1, 2018, § 1003.4(a)(10)(i) and (b) requires the financial institution to collect the information in accordance with the amended instructions.

Paragraph 4(a)(10)(ii)

1. *Applicant data—completion by financial institution.* A financial institution complies with § 1003.4(a)(10)(ii) by reporting the applicant's age, as of the application date under § 1003.4(a)(1)(ii), as the number of whole years derived from the date of birth as shown on the application form. For example, if an applicant provides a date of birth of 01/15/1970 on the application form that the financial institution receives on 01/14/2015, the institution reports 44 as the applicant's age.

2. *Applicant data—co-applicant.* If there are no co-applicants, the financial institution reports that there is no co-applicant. If there is more than one co-applicant, the financial institution reports the age only for the first co-applicant listed on the application form. A co-applicant may provide an absent co-applicant's age on behalf of the absent co-applicant.

3. *Applicant data—purchased loan.* A financial institution complies with § 1003.4(a)(10)(ii) by reporting that the requirement is not applicable when reporting a purchased loan for which the institution chooses not to report the age.

4. *Applicant data—non-natural person.* A financial institution complies with § 1003.4(a)(10)(ii) by reporting that the requirement is not applicable if the applicant or co-applicant is not a natural person (for example, a corporation, partnership, or trust). For example, for a transaction involving a trust, a financial institution reports that the requirement to report the applicant's age is not applicable if the trust is the applicant. On the other hand, if the applicant is a natural person, and is the beneficiary of a trust, a financial institution reports the applicant's age.

5. *Applicant data—guarantor.* For purposes of § 1003.4(a)(10)(ii), if a covered loan or application includes a guarantor, a financial institution does not report the guarantor's age.

Paragraph 4(a)(10)(iii)

1. *Income data—income relied on.* When a financial institution evaluates income as part of a credit decision, it reports the gross annual income relied on in making the credit decision. For example, if an institution relies on an applicant's salary to compute a debt-to-income ratio but also relies on the applicant's annual bonus to evaluate creditworthiness, the institution reports the salary and the bonus to the extent relied upon. If an institution relies on only a portion of an applicant's income in its determination, it does not report that portion of income not relied on. For example, if an institution, pursuant to lender and investor guidelines, does not rely on an applicant's commission income because it has been earned for less than 12 months, the institution does not include the applicant's commission income in the income reported. Likewise, if an institution relies on the verified gross income of the applicant in making the credit decision, then the institution reports the verified gross income. Similarly, if an institution relies on the income of a cosigner to evaluate creditworthiness, the institution includes the cosigner's income to the extent relied upon. An institution, however, does not include the income of a guarantor who is only secondarily liable.

2. *Income data—co-applicant.* If two persons jointly apply for a covered loan and both list income on the application, but the financial institution relies on the income of only one applicant in evaluating creditworthiness, the institution reports only the income relied on.

3. *Income data—loan to employee.* A financial institution complies with § 1003.4(a)(10)(iii) by reporting that the requirement is not applicable for a covered loan to, or an application from, its employee to protect the employee's privacy, even though the institution relied on the employee's income in making the credit decision.

4. *Income data—assets.* A financial institution does not include as income amounts considered in making a credit decision based on factors that an institution relies on in addition to income, such as amounts derived from underwriting calculations of the potential annuitization or depletion of an applicant's remaining assets. Actual distributions from retirement accounts or other assets that are relied on by the financial institution as income should be reported as income. The interpretation of income in this paragraph does not affect § 1003.4(a)(23), which requires, except for purchased covered loans, the collection of the ratio of the applicant's or borrower's total monthly debt to the total monthly income relied on in making the credit decision.

5. *Income data—credit decision not made.* Section 1003.4(a)(10)(iii) requires a financial institution to report the gross annual income relied on in processing the application if a credit decision was not made. For example, assume an institution received an application that included an applicant's self-reported income, but the application was withdrawn before a credit decision that would have considered income was made. The financial institution reports the income information relied on in processing the application at the time that the application was withdrawn or the file was closed for incompleteness.

6. *Income data—credit decision not requiring consideration of income.* A financial institution complies with § 1003.4(a)(10)(iii) by reporting that the requirement is not applicable if the application did not or would not have required a credit decision that considered income under the financial institution's policies and procedures. For example, if the financial institution's policies and procedures do not consider income for a streamlined refinance program, the institution reports that the requirement is not applicable, even if the institution received income information from the applicant.

7. *Income data—non-natural person.* A financial institution reports that the requirement is not applicable when the applicant or co-applicant is not a natural person (*e.g.,* a corporation, partnership, or trust). For example, for a transaction involving a trust, a financial institution reports that the requirement to report income data is not applicable if the trust is the applicant. On the other hand, if the applicant is a natural person, and is the beneficiary of a trust, a financial institution is required to report the information described in § 1003.4(a)(10)(iii).

8. *Income data—multifamily properties.* A financial institution complies with § 1003.4(a)(10)(iii) by reporting that the requirement is not applicable when the covered loan is secured by, or application is proposed to be secured by, a multifamily dwelling.

9. *Income data—purchased loans.* A financial institution complies with § 1003.4(a)(10)(iii) by reporting that the requirement is not applicable when reporting a purchased covered loan for which the institution chooses not to report the income.

10. *Income data—rounding.* A financial institution complies by reporting the dollar amount of the income in thousands, rounded to the nearest thousand ($500 rounds up to the next $1,000). For example, $35,500 is reported as 36.

Paragraph 4(a)(11)

1. *Type of purchaser—loan-participation interests sold to more than one entity.* A financial institution that originates a covered loan, and then sells it to more than one entity, reports the ''type of purchaser'' based on the entity purchasing the greatest interest, if any. For purposes of § 1003.4(a)(11), if a financial institution sells some interest or interests in a covered loan but retains a majority interest in that loan, it does not report the sale.

2. *Type of purchaser—swapped covered loans.* Covered loans ''swapped'' for mortgage-backed securities are to be treated as sales; the purchaser is the entity receiving the covered loans that are swapped.

3. *Type of purchaser—affiliate institution.* For purposes of complying with § 1003.4(a)(11), the term ''affiliate'' means any company that controls, is controlled by, or is under common control with, another company, as set forth in the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*).

4. *Type of purchaser—private securitizations.* A financial institution that knows or reasonably believes that the covered loan it is selling will be securitized by the entity purchasing the covered loan, other than by one of the government-

sponsored enterprises, reports the purchasing entity type as a private securitizer regardless of the type or affiliation of the purchasing entity. Knowledge or reasonable belief could, for example, be based on the purchase agreement or other related documents, the financial institution's previous transactions with the purchaser, or the purchaser's role as a securitizer (such as an investment bank). If a financial institution selling a covered loan does not know or reasonably believe that the purchaser will securitize the loan, and the seller knows that the purchaser frequently holds or disposes of loans by means other than securitization, then the financial institution should report the covered loan as purchased by, as appropriate, a commercial bank, savings bank, savings association, life insurance company, credit union, mortgage company, finance company, affiliate institution, or other type of purchaser.

5. *Type of purchaser—mortgage company.* For purposes of complying with § 1003.4(a)(11), a mortgage company means a nondepository institution that purchases covered loans and typically originates such loans. A mortgage company might be an affiliate or a subsidiary of a bank holding company or thrift holding company, or it might be an independent mortgage company. Regardless, a financial institution reports the purchasing entity type as a mortgage company, unless the mortgage company is an affiliate of the seller institution, in which case the seller institution should report the loan as purchased by an affiliate institution.

6. *Purchases by subsidiaries.* A financial institution that sells a covered loan to its subsidiary that is a commercial bank, savings bank, or savings association, should report the covered loan as purchased by a commercial bank, savings bank, or savings association. A financial institution that sells a covered loan to its subsidiary that is a life insurance company, should report the covered loan as purchased by a life insurance company. A financial institution that sells a covered loan to its subsidiary that is a credit union, mortgage company, or finance company, should report the covered loan as purchased by a credit union, mortgage company, or finance company. If the subsidiary that purchases the covered loan is not a commercial bank, savings bank, savings association, life insurance company, credit union, mortgage company, or finance company, the seller institution should report the loan as purchased by other type of purchaser. The financial institution should report the covered loan as purchased by an affiliate institution when the subsidiary is an affiliate of the seller institution.

7. *Type of purchaser—bank holding company or thrift holding company.* When a financial institution sells a covered loan to a bank holding company or thrift holding company (rather than to one of its subsidiaries), it should report the loan as purchased by other type of purchaser, unless the bank holding company or thrift holding company is an affiliate of the seller institution, in which case the seller institution should report the loan as purchased by an affiliate institution.

8. *Repurchased covered loans.* See comment 4(a)–5 regarding reporting requirements when a covered loan is repurchased by the originating financial institution.

9. *Type of purchaser—quarterly recording.* For purposes of recording the type of purchaser within 30 calendar days after the end of the calendar quarter pursuant to § 1003.4(f), a financial institution records that the requirement is not applicable if the institution originated or purchased a covered loan and did not sell it during the calendar quarter for which the institution is recording the data. If the financial institution sells the covered loan in a subsequent quarter of the same calendar year, the financial institution records the type of purchaser on its loan/application register for the quarter in which the covered loan was sold. If a financial institution sells the covered loan in a succeeding year, the financial institution should not record the sale.

10. *Type of purchaser—not applicable.* A financial institution reports that the requirement is not applicable for applications that were denied, withdrawn, closed for incompleteness or approved but not accepted by the applicant; and for preapproval requests that were denied or approved but not accepted by the applicant. A financial institution also reports that the requirement is not applicable if the institution originated or purchased a covered loan and did not sell it during that same calendar year.

Paragraph 4(a)(12)

1. *Average prime offer rate.* Average prime offer rates are annual percentage rates derived from average interest rates and other loan pricing terms offered to borrowers by a set of creditors for mortgage loans that have low-risk pricing characteristics. Other loan pricing terms may include commonly used indices, margins, and initial fixed-rate periods for variable-rate transactions. Relevant pricing characteristics may include a consumer's credit history and transaction characteristics such as the loan-to-value ratio, owner-occupant status, and purpose of the transaction. To obtain average prime offer rates, the Bureau uses creditor data by transaction type.

2. *Bureau tables.* The Bureau publishes tables of current and historic average prime offer rates by transaction type on the FFIEC's website (*http://www.ffiec.gov/hmda*) and the Bureau's website (*https://www.consumerfinance.gov*). The Bureau calculates an annual percentage rate, consistent with Regulation Z (*see* 12 CFR 1026.22 and 12 CFR part 1026, appendix J), for each transaction type for which pricing terms are available from the creditor data described in comment 4(a)(12)–1. The Bureau uses loan pricing terms available in the creditor data and other information to estimate annual percentage rates for other types of transactions for which the creditor data are limited or not available. The Bureau publishes on the FFIEC's website and the Bureau's website the methodology it uses to arrive at these estimates. A financial institution may either use the average prime offer rates published by the Bureau or determine average prime offer rates itself by employing the methodology published on the FFIEC's website and the Bureau's website. A financial institution that determines average prime offer rates itself, however, is responsible for correctly determining the rates in accordance with the published methodology.

3. *Rate spread calculation—annual percentage rate.* The requirements of § 1003.4(a)(12)(i) refer to the covered loan's annual percentage rate. For closed-end mortgage loans, a financial institution complies with § 1003.4(a)(12)(i) by relying on the annual percentage rate for the covered loan, as calculated and disclosed pursuant to Regulation Z, 12 CFR 1026.18 or 1026.38. For open-end lines of credit, a financial institution complies with § 1003.4(a)(12)(i) by relying on the annual percentage rate for the covered loan, as calculated and disclosed pursuant to Regulation Z, 12 CFR 1026.6. If multiple annual percentage rates are calculated and disclosed pursuant to Regulation Z, 12 CFR 1026.6, a financial institution relies on the annual percentage rate in effect at the time of account opening. If an open-end line of credit has a variable-rate feature and a fixed-rate and -term payment option during the draw period, a financial institution relies on the annual percentage rate in effect at the time of account opening under the variable-rate feature, which would be a discounted initial rate if one is offered under the variable-rate feature. See comment 4(a)(12)–8 for guidance regarding the annual percentage rate a financial institution relies on in the case of an application or preapproval request that was approved but not accepted.

4. *Rate spread calculation—comparable transaction.* The rate spread calculation in § 1003.4(a)(12)(i) is defined by reference to a comparable transaction, which is determined according to the covered loan's amortization type (*i.e.,* fixed- or variable-rate) and loan term. For covered loans that are open-end lines of credit, § 1003.4(a)(12)(i) requires a financial institution to identify the most closely comparable closed-end transaction. The tables of average prime offer rates published by the Bureau (see comment 4(a)(12)–2) provide additional detail about how to identify the comparable transaction.

i. *Fixed-rate transactions.* For fixed-rate covered loans, the term for identifying the comparable transaction is the transaction's maturity (*i.e.,* the period until the last payment will be due under the closed-end mortgage loan contract or open-end line of credit agreement). If an open-end credit plan has a fixed rate but no definite plan length, a financial institution complies with § 1003.4(a)(12)(i) by using a 30-year fixed-rate loan as the most closely comparable closed-end transaction. Financial institutions may refer to the table on the FFIEC website entitled ''Average Prime Offer Rates-Fixed'' when identifying a comparable fixed-rate transaction.

ii. *Variable-rate transactions.* For variable-rate covered loans, the term for identifying the comparable transaction is the initial, fixed-rate period (*i.e.,* the period until the first scheduled rate adjustment). For example, five years is the relevant term for a variable-rate transaction with a five-year, fixed-rate introductory period that is amortized over thirty years. Financial institutions may refer to the table on the

FFIEC website entitled ''Average Prime Offer Rates-Variable'' when identifying a comparable variable-rate transaction. If an open-end line of credit has a variable rate and an optional, fixed-rate feature, a financial institution uses the rate table for variable-rate transactions.

iii. *Term not in whole years.* When a covered loan's term to maturity (or, for a variable-rate transaction, the initial fixed-rate period) is not in whole years, the financial institution uses the number of whole years closest to the actual loan term or, if the actual loan term is exactly halfway between two whole years, by using the shorter loan term. For example, for a loan term of ten years and three months, the relevant term is ten years; for a loan term of ten years and nine months, the relevant term is 11 years; for a loan term of ten years and six months, the relevant term is ten years. If a loan term includes an odd number of days, in addition to an odd number of months, the financial institution rounds to the nearest whole month, or rounds down if the number of odd days is exactly halfway between two months. The financial institution rounds to one year any covered loan with a term shorter than six months, including variable-rate covered loans with no initial, fixed-rate periods. For example, if an open-end covered loan has a rate that varies according to an index plus a margin, with no introductory, fixed-rate period, the transaction term is one year.

iv. *Amortization period longer than loan term.* If the amortization period of a covered loan is longer than the term of the transaction to maturity, § 1003.4(a)(12)(i) requires a financial institution to use the loan term to determine the applicable average prime offer rate. For example, assume a financial institution originates a closed-end, fixed-rate loan that has a term to maturity of five years and a thirty-year amortization period that results in a balloon payment. The financial institution complies with § 1003.4(a)(12)(i) by using the five-year loan term.

5. *Rate-set date.* The relevant date to use to determine the average prime offer rate for a comparable transaction is the date on which the interest rate was set by the financial institution for the final time before final action is taken (*i.e.,* the application was approved but not accepted or the covered loan was originated).

i. *Rate-lock agreement.* If an interest rate is set pursuant to a ''lock-in'' agreement between the financial institution and the borrower, then the date on which the agreement fixes the interest rate is the date the rate was set. Except as provided in comment 4(a)(12)–5.ii, if a rate is reset after a lock-in agreement is executed (for example, because the borrower exercises a float-down option or the agreement expires), then the relevant date is the date the financial institution exercises discretion in setting the rate for the final time before final action is taken. The same rule applies when a rate-lock agreement is extended and the rate is reset at the same rate, regardless of whether market rates have increased, decreased, or remained the same since the initial rate was set. If no lock-in agreement is executed, then the relevant date is the date on which the institution sets the rate for the final time before final action is taken.

ii. *Change in loan program.* If a financial institution issues a rate-lock commitment under one loan program, the borrower subsequently changes to another program that is subject to different pricing terms, and the financial institution changes the rate promised to the borrower under the rate-lock commitment accordingly, the rate-set date is the date of the program change. However, if the financial institution changes the promised rate to the rate that would have been available to the borrower under the new program on the date of the original rate-lock commitment, then that is the date the rate is set, provided the financial institution consistently follows that practice in all such cases or the original rate-lock agreement so provided. For example, assume that a borrower locks a rate of 2.5 percent on June 1 for a 30-year, variable-rate loan with a five-year, fixed-rate introductory period. On June 15, the borrower decides to switch to a 30-year, fixed-rate loan, and the rate available to the borrower for that product on June 15 is 4.0 percent. On June 1, the 30-year, fixed-rate loan would have been available to the borrower at a rate of 3.5 percent. If the financial institution offers the borrower the 3.5 percent rate (*i.e.,* the rate that would have been available to the borrower for the fixed-rate product on June 1, the date of the original rate-lock) because the original agreement so provided or because the financial institution consistently follows that practice for borrowers who change loan programs, then the financial institution should use June 1 as the rate-set date. In all other cases, the financial institution should use June 15 as the rate-set date.

iii. *Brokered loans.* When a financial institution has reporting responsibility for an application for a covered loan that it received from a broker, as discussed in comment 4(a)–2 (*e.g.,* because the financial institution makes a credit decision prior to closing or account opening), the rate-set date is the last date the financial institution set the rate with the broker, not the date the broker set the borrower's rate.

6. *Compare the annual percentage rate to the average prime offer rate.* Section 1003.4(a)(12)(i) requires a financial institution to compare the covered loan's annual percentage rate to the most recently available average prime offer rate that was in effect for the comparable transaction as of the rate-set date. For purposes of § 1003.4(a)(12)(i), the most recently available rate means the average prime offer rate set forth in the applicable table with the most recent effective date as of the date the interest rate was set. However, § 1003.4(a)(12)(i) does not permit a financial institution to use an average prime offer rate before its effective date.

7. *Rate spread—scope of requirement.* If the covered loan is an assumption, reverse mortgage, a purchased loan, or is not subject to Regulation Z, 12 CFR part 1026, a financial institution complies with § 1003.4(a)(12) by reporting that the requirement is not applicable. If the application did not result in an origination for a reason other than the application was approved but not accepted by the applicant, a financial institution complies with § 1003.4(a)(12) by reporting that the requirement is not applicable. For partially exempt transactions under § 1003.3(d), an insured depository institution or insured credit union is not required to report the rate spread. *See* § 1003.3(d) and related commentary.

8. *Application or preapproval request approved but not accepted.* In the case of an application or preapproval request that was approved but not accepted, § 1003.4(a)(12) requires a financial institution to report the applicable rate spread. In such cases, the financial institution would provide early disclosures under Regulation Z, 12 CFR 1026.18 or 1026.37 (for closed-end mortgage loans), or 1026.40 (for open-end lines of credit), but might never provide any subsequent disclosures. In such cases where no subsequent disclosures are provided, a financial institution complies with § 1003.4(a)(12)(i) by relying on the annual percentage rate for the application or preapproval request, as calculated and disclosed pursuant to Regulation Z, 12 CFR 1026.18 or 1026.37 (for closed-end mortgage loans), or 1026.40 (for open-end lines of credit), as applicable. For transactions subject to Regulation C for which no disclosures under Regulation Z are required, a financial institution complies with § 1003.4(a)(12)(i) by reporting that the requirement is not applicable.

9. *Corrected disclosures.* In the case of a covered loan or an application that was approved but not accepted, if the annual percentage rate changes because a financial institution provides a corrected version of the disclosures required under Regulation Z, 12 CFR 1026.19(a), pursuant to 12 CFR 1026.19(a)(2), under 12 CFR 1026.19(f), pursuant to 12 CFR 1026.19(f)(2), or under 12 CFR 1026.6(a), the financial institution complies with § 1003.4(a)(12)(i) by comparing the corrected and disclosed annual percentage rate to the most recently available average prime offer rate that was in effect for a comparable transaction as of the rate-set date, provided that the corrected disclosure was provided to the borrower prior to the end of the reporting period in which final action is taken. For purposes of § 1003.4(a)(12), the date the corrected disclosure was provided to the borrower is the date the disclosure was mailed or delivered to the borrower in person; the financial institution's method of delivery does not affect the date provided. For example, where a financial institution provides a corrected version of the disclosures required under 12 CFR 1026.19(f), pursuant to 12 CFR 1026.19(f)(2), the date provided is the date disclosed pursuant to Regulation Z, 12 CFR 1026.38(a)(3)(i). The provision of a corrected disclosure does not affect how a financial institution determines the rate-set date. *See* comment 4(a)(12)–5. For example:

i. In the case of a financial institution's annual loan/application register submission made pursuant to § 1003.5(a)(1)(i), if the financial institution provides a corrected disclosure pursuant to Regulation Z, 12 CFR 1026.19(f)(2)(v), that reflects a corrected annual percentage rate, the financial institution reports the difference between the corrected annual percentage rate and the most recently available average prime offer rate that was in effect for a comparable transaction as of the rate-set date only if the corrected disclosure was provided to the borrower prior to the end of the calendar year in which final action is taken.

ii. In the case of a financial institution's quarterly submission made pursuant to § 1003.5(a)(1)(ii), if the financial institution provides a corrected disclosure pursuant to Regulation Z, 12 CFR 1026.19(f)(2)(v), that reflects a corrected annual percentage rate, the financial institution reports the difference between the corrected annual percentage rate and the most recently available average prime offer rate that was in effect for a comparable transaction as of the rate-set date only if the corrected disclosure was provided to the borrower prior to the end of the quarter in which final action is taken. The financial institution does not report the difference between the corrected annual percentage rate and the most recently available average prime offer rate that was in effect for a comparable transaction as of the rate-set date if the corrected disclosure was provided to the borrower after the end of the quarter in which final action is taken, even if the corrected disclosure was provided to the borrower prior to the deadline for timely submission of the financial institution's quarterly data. However, the financial institution reports the difference between the corrected annual percentage rate and the most recently available average prime offer rate that was in effect for a comparable transaction as of the rate-set date on its annual loan/application register, provided that the corrected disclosure was provided to the borrower prior to the end of the calendar year in which final action is taken.

Paragraph 4(a)(13)

1. *HOEPA status—not applicable.* If the covered loan is not subject to the Home Ownership and Equity Protection Act of 1994, as implemented in Regulation Z, 12 CFR 1026.32, a financial institution complies with § 1003.4(a)(13) by reporting that the requirement is not applicable. If an application did not result in an origination, a financial institution complies with § 1003.4(a)(13) by reporting that the requirement is not applicable.

Paragraph 4(a)(14)

1. *Determining lien status for applications and covered loans originated and purchased.*

i. Financial institutions are required to report lien status for covered loans they originate and purchase and applications that do not result in originations (preapproval requests that are approved but not accepted, preapproval requests that are denied, applications that are approved but not accepted, denied, withdrawn, or closed for incompleteness). For covered loans purchased by a financial institution, lien status is determined by reference to the best information readily available to the financial institution at the time of purchase. For covered loans that a financial institution originates and applications that do not result in originations, lien status is determined by reference to the best information readily available to the financial institution at the time final action is taken and to the financial institution's own procedures. Thus, financial institutions may rely on the title search they routinely perform as part of their underwriting procedures—for example, for home purchase loans. Regulation C does not require financial institutions to perform title searches solely to comply with HMDA reporting requirements. Financial institutions may rely on other information that is readily available to them at the time final action is taken and that they reasonably believe is accurate, such as the applicant's statement on the application or the applicant's credit report. For example, where the applicant indicates on the application that there is a mortgage on the property or where the applicant's credit report shows that the applicant has a mortgage—and that mortgage will not be paid off as part of the transaction—the financial institution may assume that the loan it originates is secured by a subordinate lien. If the same application did not result in an origination—for example, because the application was denied or withdrawn—the financial institution would report the application as an application for a subordinate-lien loan.

ii. Financial institutions may also consider their established procedures when determining lien status for applications that do not result in originations. For example, assume an applicant applies to a financial institution to refinance a $100,000 first mortgage; the applicant also has an open-end line of credit for $20,000. If the financial institution's practice in such a case is to ensure that it will have first-lien position—through a subordination agreement with the holder of the lien securing the open-end line of credit—then the financial institution should report the application as an application for a first-lien covered loan.

2. *Multiple properties.* See comment 4(a)(9)–2 regarding transactions involving multiple properties with more than one property taken as security.

Paragraph 4(a)(15)

1. *Credit score—relied on.* Except for purchased covered loans and partially exempt transactions under § 1003.3(d), § 1003.4(a)(15) requires a financial institution to report the credit score or scores relied on in making the credit decision and information about the scoring model used to generate each score. A financial institution relies on a credit score in making the credit decision if the credit score was a factor in the credit decision even if it was not a dispositive factor. For example, if a credit score is one of multiple factors in a financial institution's credit decision, the financial institution has relied on the credit score even if the financial institution denies the application because one or more underwriting requirements other than the credit score are not satisfied.

2. *Credit score—multiple credit scores.* When a financial institution obtains or creates two or more credit scores for a single applicant or borrower but relies on only one score in making the credit decision (for example, by relying on the lowest, highest, most recent, or average of all of the scores), the financial institution complies with § 1003.4(a)(15) by reporting that credit score and information about the scoring model used. When a financial institution uses more than one credit scoring model and combines the scores into a composite credit score that it relies on, the financial institution reports that score and reports that more than one credit scoring model was used. When a financial institution obtains or creates two or more credit scores for an applicant or borrower and relies on multiple scores for the applicant or borrower in making the credit decision (for example, by relying on a scoring grid that considers each of the scores obtained or created for the applicant or borrower without combining the scores into a composite score), § 1003.4(a)(15) requires the financial institution to report one of the credit scores for the applicant or borrower that was relied on in making the credit decision. In choosing which credit score to report in this circumstance, a financial institution need not use the same approach for its entire HMDA submission, but it should be generally consistent (such as by routinely using one approach within a particular division of the institution or for a category of covered loans). In instances such as these, the financial institution should report the name and version of the credit scoring model for the score reported.

3. *Credit score—multiple applicants or borrowers.* In a transaction involving two or more applicants or borrowers for whom the financial institution obtains or creates a single credit score and relies on that credit score in making the credit decision for the transaction, the institution complies with § 1003.4(a)(15) by reporting that credit score for the applicant and reporting that the requirement is not applicable for the first co-applicant or, at the financial institution's discretion, by reporting that credit score for the first co-applicant and reporting that the requirement is not applicable for the applicant. Otherwise, a financial institution complies with § 1003.4(a)(15) by reporting a credit score for the applicant that it relied on in making the credit decision, if any, and a credit score for the first co-applicant that it relied on in making the credit decision, if any. To illustrate, assume a transaction involves one applicant and one co-applicant and that the financial institution obtains or creates two credit scores for the applicant and two credit scores for the co-applicant. Assume further that the financial institution relies on a single credit score that is the lowest, highest, most recent, or average of all of the credit scores obtained or created to make the credit decision for the transaction. The financial institution complies with § 1003.4(a)(15) by reporting that credit score and information about the scoring model used for the applicant and reporting that the requirement is not applicable for the first co-applicant or, at the financial institution's discretion, by reporting the data for the first co-applicant and reporting that the requirement is not applicable for the applicant. Alternatively, assume a transaction involves one applicant and one co-applicant and that the financial institution obtains or creates three credit scores for the applicant and three credit scores for the co-applicant. Assume further that the financial institution relies on the middle credit score for the applicant and the middle credit score

for the co-applicant to make the credit decision for the transaction. The financial institution complies with § 1003.4(a)(15) by reporting both the middle score for the applicant and the middle score for the co-applicant.

4. *Transactions for which no credit decision was made.* If a file was closed for incompleteness or the application was withdrawn before a credit decision was made, the financial institution complies with § 1003.4(a)(15) by reporting that the requirement is not applicable, even if the financial institution had obtained or created a credit score for the applicant or co-applicant. For example, if a file is closed for incompleteness and is so reported in accordance with § 1003.4(a)(8), the financial institution complies with § 1003.4(a)(15) by reporting that the requirement is not applicable, even if the financial institution had obtained or created a credit score for the applicant or co-applicant. Similarly, if an application was withdrawn by the applicant before a credit decision was made and is so reported in accordance with § 1003.4(a)(8), the financial institution complies with § 1003.4(a)(15) by reporting that the requirement is not applicable, even if the financial institution had obtained or created a credit score for the applicant or co-applicant.

5. *Transactions for which no credit score was relied on.* If a financial institution makes a credit decision without relying on a credit score for the applicant or borrower, the financial institution complies with § 1003.4(a)(15) by reporting that the requirement is not applicable.

6. *Purchased covered loan.* A financial institution complies with § 1003.4(a)(15) by reporting that the requirement is not applicable when the covered loan is a purchased covered loan.

7. *Non-natural person.* When the applicant and co-applicant, if applicable, are not natural persons, a financial institution complies with § 1003.4(a)(15) by reporting that the requirement is not applicable.

Paragraph 4(a)(16)

1. *Reason for denial—general.* A financial institution complies with § 1003.4(a)(16) by reporting the principal reason or reasons it denied the application, indicating up to four reasons. The financial institution should report only the principal reason or reasons it denied the application, even if there are fewer than four reasons. For example, if a financial institution denies the application because of the applicant's credit history and debt-to-income ratio, the financial institution need only report these two principal reasons. The reasons reported must be specific and accurately describe the principal reason or reasons the financial institution denied the application.

2. *Reason for denial—preapproval request denied.* Section 1003.4(a)(16) requires a financial institution to report the principal reason or reasons it denied the application. A request for a preapproval under a preapproval program as defined by § 1003.2(b)(2) is an application. If a financial institution denies a preapproval request, the financial institution complies with § 1003.4(a)(16) by reporting the reason or reasons it denied the preapproval request.

3. *Reason for denial—adverse action model form or similar form.* If a financial institution chooses to provide the applicant the reason or reasons it denied the application using the model form contained in appendix C to Regulation B (Form C–1, Sample Notice of Action Taken and Statement of Reasons) or a similar form, § 1003.4(a)(16) requires the financial institution to report the reason or reasons that were specified on the form by the financial institution, which includes reporting the ''Other'' reason or reasons that were specified on the form by the financial institution, if applicable. If a financial institution chooses to provide a disclosure of the applicant's right to a statement of specific reasons using the model form contained in appendix C to Regulation B (Form C–5, Sample Disclosure of Right to Request Specific Reasons for Credit Denial) or a similar form, or chooses to provide the denial reason or reasons orally under Regulation B, 12 CFR 1002.9(a)(2)(ii), the financial institution complies with § 1003.4(a)(16) by entering the principal reason or reasons it denied the application.

4. *Reason for denial—scope of requirement.* A financial institution complies with § 1003.4(a)(16) by reporting that the requirement is not applicable if the action taken on the application, pursuant to § 1003.4(a)(8), is not a denial. For example, a financial institution complies with § 1003.4(a)(16) by reporting that the requirement is not applicable if the loan is originated or purchased by the financial institution, or the application or preapproval request was approved but not accepted, or the application was withdrawn before a credit decision was made, or the file was closed for incompleteness. For partially exempt transactions under § 1003.3(d), an insured depository institution or insured credit union is not required to report the principal reason or reasons it denied an application. *See* § 1003.3(d) and related commentary.

Paragraph 4(a)(17)(i)

1. *Total loan costs—scope of requirement.* Section 1003.4(a)(17)(i) does not require financial institutions to report the total loan costs for applications, or for transactions not subject to Regulation Z, 12 CFR 1026.43(c), and 12 CFR 1026.19(f), such as open-end lines of credit, reverse mortgages, or loans or lines of credit made primarily for business or commercial purposes. In these cases, a financial institution complies with § 1003.4(a)(17)(i) by reporting that the requirement is not applicable to the transaction. For partially exempt transactions under § 1003.3(d), an insured depository institution or insured credit union is not required to report the total loan costs. *See* § 1003.3(d) and related commentary.

2. *Purchased loans—applications received prior to the integrated disclosure effective date.* For purchased covered loans subject to this reporting requirement for which applications were received by the selling entity prior to the effective date of Regulation Z, 12 CFR 1026.19(f), a financial institution complies with § 1003.4(a)(17)(i) by reporting that the requirement is not applicable to the transaction.

3. *Corrected disclosures.* If the amount of total loan costs changes because a financial institution provides a corrected version of the disclosures required under Regulation Z, 12 CFR 1026.19(f), pursuant to 12 CFR 1026.19(f)(2), the financial institution complies with § 1003.4(a)(17)(i) by reporting the corrected amount, provided that the corrected disclosure was provided to the borrower prior to the end of the reporting period in which closing occurs. For purposes of § 1003.4(a)(17)(i), the date the corrected disclosure was provided to the borrower is the date disclosed pursuant to Regulation Z, 12 CFR 1026.38(a)(3)(i). For example:

i. In the case of a financial institution's annual loan/application register submission made pursuant to § 1003.5(a)(1)(i), if the financial institution provides a corrected disclosure to the borrower to reflect a refund made pursuant to Regulation Z, 12 CFR 1026.19(f)(2)(v), the financial institution reports the corrected amount of total loan costs only if the corrected disclosure was provided to the borrower prior to the end of the calendar year in which closing occurs.

ii. In the case of a financial institution's quarterly submission made pursuant to § 1003.5(a)(1)(ii), if the financial institution provides a corrected disclosure to the borrower to reflect a refund made pursuant to Regulation Z, 12 CFR 1026.19(f)(2)(v), the financial institution reports the corrected amount of total loan costs only if the corrected disclosure was provided to the borrower prior to the end of the quarter in which closing occurs. The financial institution does not report the corrected amount of total loan costs in its quarterly submission if the corrected disclosure was provided to the borrower after the end of the quarter in which closing occurs, even if the corrected disclosure was provided to the borrower prior to the deadline for timely submission of the financial institution's quarterly data. However, the financial institution reports the corrected amount of total loan costs on its annual loan/application register, provided that the corrected disclosure was provided to the borrower prior to the end of the calendar year in which closing occurs.

Paragraph 4(a)(17)(ii)

1. *Total points and fees—scope of requirement.* Section 1003.4(a)(17)(ii) does not require financial institutions to report the total points and fees for transactions not subject to Regulation Z, 12 CFR 1026.43(c), such as open-end lines of credit, reverse mortgages, or loans or lines of credit made primarily for business or commercial purposes, or for applications or purchased covered loans. In these cases, a financial institution complies with § 1003.4(a)(17)(ii) by reporting that the requirement is not applicable to the transaction. For partially exempt transactions under § 1003.3(d), an insured depository institution or insured credit union is not required to report the total points and fees. *See* § 1003.3(d) and related commentary.

2. *Total points and fees cure mechanism.* For covered loans subject to this reporting requirement, if a financial institution

determines that the transaction's total points and fees exceeded the applicable limit and cures the overage pursuant to Regulation Z, 12 CFR 1026.43(e)(3)(iii) and (iv), a financial institution complies with § 1003.4(a)(17)(ii) by reporting the correct amount of total points and fees, provided that the cure was effected during the same reporting period in which closing occurred. For example, in the case of a financial institution's quarterly submission, the financial institution reports the revised amount of total points and fees only if it cured the overage prior to the end of the quarter in which closing occurred. The financial institution does not report the revised amount of total points and fees in its quarterly submission if it cured the overage after the end of the quarter, even if the cure was effected prior to the deadline for timely submission of the financial institution's quarterly data. However, the financial institution reports the revised amount of total points and fees on its annual loan/application register.

Paragraph 4(a)(18)

1. *Origination charges—scope of requirement.* Section 1003.4(a)(18) does not require financial institutions to report the total borrower-paid origination charges for applications, or for transactions not subject to Regulation Z, 12 CFR 1026.19(f), such as open-end lines of credit, reverse mortgages, or loans or lines of credit made primarily for business or commercial purposes. In these cases, a financial institution complies with § 1003.4(a)(18) by reporting that the requirement is not applicable to the transaction. For partially exempt transactions under § 1003.3(d), an insured depository institution or insured credit union is not required to report the total borrower-paid origination charges. *See* § 1003.3(d) and related commentary.

2. *Purchased loans—applications received prior to the integrated disclosure effective date.* For purchased covered loans subject to this reporting requirement for which applications were received by the selling entity prior to the effective date of Regulation Z, 12 CFR 1026.19(f), a financial institution complies with § 1003.4(a)(18) by reporting that the requirement is not applicable to the transaction.

3. *Corrected disclosures.* If the total amount of borrower-paid origination charges changes because a financial institution provides a corrected version of the disclosures required under Regulation Z, 12 CFR 1026.19(f), pursuant to 12 CFR 1026.19(f)(2), the financial institution complies with § 1003.4(a)(18) by reporting the corrected amount, provided that the corrected disclosure was provided to the borrower prior to the end of the reporting period in which closing occurs. For purposes of § 1003.4(a)(18), the date the corrected disclosure was provided to the borrower is the date disclosed pursuant to Regulation Z, 12 CFR 1026.38(a)(3)(i). For example:

i. In the case of a financial institution's annual loan/application register submission made pursuant to § 1003.5(a)(1)(i), if the financial institution provides a corrected disclosure to the borrower to reflect a refund made pursuant to Regulation Z, 12 CFR 1026.19(f)(2)(v), the financial institution reports the corrected amount of borrower-paid origination charges only if the corrected disclosure was provided to the borrower prior to the end of the calendar year in which closing occurs.

ii. In the case of a financial institution's quarterly submission made pursuant to § 1003.5(a)(1)(ii), if the financial institution provides a corrected disclosure to the borrower to reflect a refund made pursuant to Regulation Z, 12 CFR 1026.19(f)(2)(v), the financial institution reports the corrected amount of borrower-paid origination charges only if the corrected disclosure was provided to the borrower prior to the end of the quarter in which closing occurs. The financial institution does not report the corrected amount of borrower-paid origination charges in its quarterly submission if the corrected disclosure was provided to the borrower after the end of the quarter in which closing occurs, even if the corrected disclosure was provided to the borrower prior to the deadline for timely submission of the financial institution's quarterly data. However, the financial institution reports the corrected amount of borrower-paid origination charges on its annual loan/application register, provided that the corrected disclosure was provided to the borrower prior to the end of the calendar year in which closing occurs.

Paragraph 4(a)(19)

1. *Discount points—scope of requirement.* Section 1003.4(a)(19) does not require financial institutions to report the discount points for applications, or for transactions not subject to Regulation Z, 12 CFR 1026.19(f), such as open-end lines of credit, reverse mortgages, or loans or lines of credit made primarily for business or commercial purposes. In these cases, a financial institution complies with § 1003.4(a)(19) by reporting that the requirement is not applicable to the transaction. For partially exempt transactions under § 1003.3(d), an insured depository institution or insured credit union is not required to report the discount points. *See* § 1003.3(d) and related commentary.

2. *Purchased loans—applications received prior to the integrated disclosure effective date.* For purchased covered loans subject to this reporting requirement for which applications were received by the selling entity prior to the effective date of Regulation Z, 12 CFR 1026.19(f), a financial institution complies with § 1003.4(a)(19) by reporting that the requirement is not applicable to the transaction.

3. *Corrected disclosures.* If the amount of discount points changes because a financial institution provides a corrected version of the disclosures required under Regulation Z, 12 CFR 1026.19(f), pursuant to 12 CFR 1026.19(f)(2), the financial institution complies with § 1003.4(a)(19) by reporting the corrected amount, provided that the corrected disclosure was provided to the borrower prior to the end of the reporting period in which closing occurs. For purposes of § 1003.4(a)(19), the date the corrected disclosure was provided to the borrower is the date disclosed pursuant to Regulation Z, 12 CFR 1026.38(a)(3)(i). For example:

i. In the case of a financial institution's annual loan/application register submission made pursuant to § 1003.5(a)(1)(i), if the financial institution provides a corrected disclosure to the borrower to reflect a refund made pursuant to Regulation Z, 12 CFR 1026.19(f)(2)(v), the financial institution reports the corrected amount of discount points only if the corrected disclosure was provided to the borrower prior to the end of the calendar year in which closing occurred.

ii. In the case of a financial institution's quarterly submission made pursuant to § 1003.5(a)(1)(ii), if the financial institution provides a corrected disclosure to the borrower to reflect a refund made pursuant to Regulation Z, 12 CFR 1026.19(f)(2)(v), the financial institution reports the corrected amount of discount points only if the corrected disclosure was provided to the borrower prior to the end of the quarter in which closing occurred. The financial institution does not report the corrected amount of discount points in its quarterly submission if the corrected disclosure was provided to the borrower after the end of the quarter in which closing occurred, even if the corrected disclosure was provided to the borrower prior to the deadline for timely submission of the financial institution's quarterly data. However, the financial institution reports the corrected amount of discount points on its annual loan/application register, provided that the corrected disclosure was provided to the borrower prior to the end of the calendar year in which closing occurred.

Paragraph 4(a)(20)

1. *Lender credits—scope of requirement.* Section 1003.4(a)(20) does not require financial institutions to report lender credits for applications, or for transactions not subject to Regulation Z, 12 CFR 1026.19(f), such as open-end lines of credit, reverse mortgages, or loans or lines of credit made primarily for business or commercial purposes. In these cases, a financial institution complies with § 1003.4(a)(20) by reporting that the requirement is not applicable to the transaction. For partially exempt transactions under § 1003.3(d), an insured depository institution or insured credit union is not required to report lender credits. *See* § 1003.3(d) and related commentary.

2. *Purchased loans—applications received prior to the integrated disclosure effective date.* For purchased covered loans subject to this reporting requirement for which applications were received by the selling entity prior to the effective date of Regulation Z, 12 CFR 1026.19(f), a financial institution complies with § 1003.4(a)(20) by reporting that the requirement is not applicable to the transaction.

3. *Corrected disclosures.* If the amount of lender credits changes because a financial institution provides a corrected version of the disclosures required under Regulation Z, 12 CFR 1026.19(f), pursuant to 12 CFR 1026.19(f)(2), the financial institution complies with § 1003.4(a)(20) by reporting the corrected amount, provided that the corrected disclosure was provided to the borrower prior to the end of the reporting period in which closing occurred. For

purposes of § 1003.4(a)(20), the date the corrected disclosure was provided to the borrower is the date disclosed pursuant to Regulation Z, 12 CFR 1026.38(a)(3)(i). For example:

i. In the case of a financial institution's annual loan/application register submission made pursuant to § 1003.5(a)(1)(i), if the financial institution provides a corrected disclosure to the borrower to reflect a refund made pursuant to Regulation Z, 12 CFR 1026.19(f)(2)(v), the financial institution reports the corrected amount of lender credits only if the corrected disclosure was provided to the borrower prior to the end of the calendar year in which closing occurred.

ii. In the case of a financial institution's quarterly submission made pursuant to § 1003.5(a)(1)(ii), if the financial institution provides a corrected disclosure to the borrower to reflect a refund made pursuant to Regulation Z, 12 CFR 1026.19(f)(2)(v), the financial institution reports the corrected amount of lender credits only if the corrected disclosure was provided to the borrower prior to the end of the quarter in which closing occurred. The financial institution does not report the corrected amount of lender credits in its quarterly submission if the corrected disclosure was provided to the borrower after the end of the quarter in which closing occurred, even if the corrected disclosure was provided to the borrower prior to the deadline for timely submission of the financial institution's quarterly data. However, the financial institution reports the corrected amount of lender credits on its annual loan/application register, provided that the corrected disclosure was provided to the borrower prior to the end of the calendar year in which closing occurred.

Paragraph 4(a)(21)

1. *Interest rate—disclosures.* Except for partially exempt transactions under § 1003.3(d), § 1003.4(a)(21) requires a financial institution to identify the interest rate applicable to the approved application, or to the covered loan at closing or account opening. For covered loans or applications subject to the integrated mortgage disclosure requirements of Regulation Z, 12 CFR 1026.19(e) and (f), a financial institution complies with § 1003.4(a)(21) by reporting the interest rate disclosed on the applicable disclosure. For covered loans or approved applications for which disclosures were provided pursuant to both the early and the final disclosure requirements in Regulation Z, 12 CFR 1026.19(e) and (f), a financial institution reports the interest rate disclosed pursuant to 12 CFR 1026.19(f). A financial institution may rely on the definitions and commentary to the sections of Regulation Z relevant to the disclosure of the interest rate pursuant to 12 CFR 1026.19(e) or (f). If a financial institution provides a revised or corrected version of the disclosures required under Regulation Z, 12 CFR 1026.19(e) or (f), pursuant to 12 CFR 1026.19(e)(3)(iv) or (f)(2), as applicable, the financial institution complies with § 1003.4(a)(21) by reporting the interest rate on the revised or corrected disclosure, provided that the revised or corrected disclosure was provided to the borrower prior to the end of the reporting period in which final action is taken. For purposes of § 1003.4(a)(21), the date the revised or corrected disclosure was provided to the borrower is the date disclosed pursuant to Regulation Z, 12 CFR 1026.37(a)(4) or 1026.38(a)(3)(i), as applicable.

2. *Applications.* In the case of an application, § 1003.4(a)(21) requires a financial institution to report the applicable interest rate only if the application has been approved by the financial institution but not accepted by the borrower. In such cases, a financial institution reports the interest rate applicable at the time that the application was approved by the financial institution. A financial institution may report the interest rate appearing on the disclosure provided pursuant to 12 CFR 1026.19(e) or (f) if such disclosure accurately reflects the interest rate at the time the application was approved. For applications that have been denied or withdrawn, or files closed for incompleteness, a financial institution reports that no interest rate was applicable to the application.

3. *Adjustable rate—interest rate unknown.* Except as provided in comment 4(a)(21)–1, for adjustable-rate covered loans or applications, if the interest rate is unknown at the time that the application was approved, or at closing or account opening, a financial institution reports the fully-indexed rate based on the index applicable to the covered loan or application. For purposes of § 1003.4(a)(21), the fully-indexed rate is the index value and margin at the time that the application was approved, or, for covered loans, at closing or account opening.

Paragraph 4(a)(22)

1. *Prepayment penalty term—scope of requirement.* Section 1003.4(a)(22) does not require financial institutions to report the term of any prepayment penalty for transactions not subject to Regulation Z, 12 CFR part 1026, such as loans or lines of credit made primarily for business or commercial purposes, or for reverse mortgages or purchased covered loans. In these cases, a financial institution complies with § 1003.4(a)(22) by reporting that the requirement is not applicable to the transaction. For partially exempt transactions under § 1003.3(d), an insured depository institution or insured credit union is not required to report the term of any prepayment penalty. *See* § 1003.3(d) and related commentary.

2. *Transactions for which no prepayment penalty exists.* For covered loans or applications that have no prepayment penalty, a financial institution complies with § 1003.4(a)(22) by reporting that the requirement is not applicable to the transaction. A financial institution may rely on the definitions and commentary to Regulation Z, 12 CFR 1026.32(b)(6)(i) or (ii) in determining whether the terms of a transaction contain a prepayment penalty.

Paragraph 4(a)(23)

1. *General.* For covered loans that are not purchased covered loans and that are not partially exempt under § 1003.3(d), § 1003.4(a)(23) requires a financial institution to report the ratio of the applicant's or borrower's total monthly debt to total monthly income (debt-to-income ratio) relied on in making the credit decision. For example, if a financial institution calculated the applicant's or borrower's debt-to-income ratio twice—once according to the financial institution's own requirements and once according to the requirements of a secondary market investor—and the financial institution relied on the debt-to-income ratio calculated according to the secondary market investor's requirements in making the credit decision, § 1003.4(a)(23) requires the financial institution to report the debt-to-income ratio calculated according to the requirements of the secondary market investor.

2. *Transactions for which a debt-to-income ratio was one of multiple factors.* A financial institution relies on the ratio of the applicant's or borrower's total monthly debt to total monthly income (debt-to-income ratio) in making the credit decision if the debt-to-income ratio was a factor in the credit decision even if it was not a dispositive factor. For example, if the debt-to-income ratio was one of multiple factors in a financial institution's credit decision, the financial institution has relied on the debt-to-income ratio and complies with § 1003.4(a)(23) by reporting the debt-to-income ratio, even if the financial institution denied the application because one or more underwriting requirements other than the debt-to-income ratio were not satisfied.

3. *Transactions for which no credit decision was made.* If a file was closed for incompleteness, or if an application was withdrawn before a credit decision was made, a financial institution complies with § 1003.4(a)(23) by reporting that the requirement is not applicable, even if the financial institution had calculated the ratio of the applicant's total monthly debt to total monthly income (debt-to-income ratio). For example, if a file was closed for incompleteness and was so reported in accordance with § 1003.4(a)(8), the financial institution complies with § 1003.4(a)(23) by reporting that the requirement is not applicable, even if the financial institution had calculated the applicant's debt-to-income ratio. Similarly, if an application was withdrawn by the applicant before a credit decision was made, the financial institution complies with § 1003.4(a)(23) by reporting that the requirement is not applicable, even if the financial institution had calculated the applicant's debt-to-income ratio.

4. *Transactions for which no debt-to-income ratio was relied on.* Section 1003.4(a)(23) does not require a financial institution to calculate the ratio of an applicant's or borrower's total monthly debt to total monthly income (debt-to-income ratio), nor does it require a financial institution to rely on an applicant's or borrower's debt-to-income ratio in making a credit decision. If a financial institution made a credit decision without relying on the applicant's or borrower's debt-to-income ratio, the financial institution complies with § 1003.4(a)(23) by reporting that the requirement is not applicable since no debt-to-income ratio was relied on in connection with the credit decision.

5. *Non-natural person.* A financial institution complies with § 1003.4(a)(23) by

reporting that the requirement is not applicable when the applicant and co-applicant, if applicable, are not natural persons.

6. *Multifamily dwellings.* A financial institution complies with § 1003.4(a)(23) by reporting that the requirement is not applicable for a covered loan secured by, or an application proposed to be secured by, a multifamily dwelling.

7. *Purchased covered loans.* A financial institution complies with § 1003.4(a)(23) by reporting that the requirement is not applicable when reporting a purchased covered loan.

Paragraph 4(a)(24)

1. *General.* Except for purchased covered loans and partially exempt transactions under § 1003.3(d), § 1003.4(a)(24) requires a financial institution to report the ratio of the total amount of debt secured by the property to the value of the property (combined loan-to-value ratio) relied on in making the credit decision. For example, if a financial institution calculated a combined loan-to-value ratio twice—once according to the financial institution's own requirements and once according to the requirements of a secondary market investor—and the financial institution relied on the combined loan-to-value ratio calculated according to the secondary market investor's requirements in making the credit decision, § 1003.4(a)(24) requires the financial institution to report the combined loan-to-value ratio calculated according to the requirements of the secondary market investor.

2. *Transactions for which a combined loan-to-value ratio was one of multiple factors.* A financial institution relies on the ratio of the total amount of debt secured by the property to the value of the property (combined loan-to-value ratio) in making the credit decision if the combined loan-to-value ratio was a factor in the credit decision, even if it was not a dispositive factor. For example, if the combined loan-to-value ratio is one of multiple factors in a financial institution's credit decision, the financial institution has relied on the combined loan-to-value ratio and complies with § 1003.4(a)(24) by reporting the combined loan-to-value ratio, even if the financial institution denies the application because one or more underwriting requirements other than the combined loan-to-value ratio are not satisfied.

3. *Transactions for which no credit decision was made.* If a file was closed for incompleteness, or if an application was withdrawn before a credit decision was made, a financial institution complies with § 1003.4(a)(24) by reporting that the requirement is not applicable, even if the financial institution had calculated the ratio of the total amount of debt secured by the property to the value of the property (combined loan-to-value ratio). For example, if a file is closed for incompleteness and is so reported in accordance with § 1003.4(a)(8), the financial institution complies with § 1003.4(a)(24) by reporting that the requirement is not applicable, even if the financial institution had calculated a combined loan-to-value ratio. Similarly, if an application was withdrawn by the applicant before a credit decision was made and is so reported in accordance with § 1003.4(a)(8), the financial institution complies with § 1003.4(a)(24) by reporting that the requirement is not applicable, even if the financial institution had calculated a combined loan-to-value ratio.

4. *Transactions for which no combined loan-to-value ratio was relied on.* Section 1003.4(a)(24) does not require a financial institution to calculate the ratio of the total amount of debt secured by the property to the value of the property (combined loan-to-value ratio), nor does it require a financial institution to rely on a combined loan-to-value ratio in making a credit decision. If a financial institution makes a credit decision without relying on a combined loan-to-value ratio, the financial institution complies with § 1003.4(a)(24) by reporting that the requirement is not applicable since no combined loan-to-value ratio was relied on in making the credit decision.

5. *Purchased covered loan.* A financial institution complies with § 1003.4(a)(24) by reporting that the requirement is not applicable when the covered loan is a purchased covered loan.

6. *Property.* A financial institution reports the combined loan-to-value ratio relied on in making the credit decision, regardless of which property or properties it used in the combined loan-to-value ratio calculation. The property used in the combined loan-to-value ratio calculation does not need to be the property identified in § 1003.4(a)(9) and may include more than one property and non-real property. For example, if a financial institution originated a covered loan for the purchase of a multifamily dwelling, the loan was secured by the multifamily dwelling and by non-real property, such as securities, and the financial institution used the multifamily dwelling and the non-real property to calculate the combined loan-to-value ratio that it relied on in making the credit decision, § 1003.4(a)(24) requires the financial institution to report the relied upon ratio. Section 1003.4(a)(24) does not require a financial institution to use a particular combined loan-to-value ratio calculation method but instead requires financial institutions to report the combined loan-to-value ratio relied on in making the credit decision.

Paragraph 4(a)(25)

1. *Amortization and maturity.* For a fully amortizing covered loan, the number of months after which the legal obligation matures is the number of months in the amortization schedule, ending with the final payment. Some covered loans do not fully amortize during the maturity term, such as covered loans with a balloon payment; such loans should still be reported using the maturity term rather than the amortization term, even in the case of covered loans that mature before fully amortizing but have reset options. For example, a 30-year fully amortizing covered loan would be reported with a term of ''360,'' while a five year balloon covered loan would be reported with a loan term of ''60.''

2. *Non-monthly repayment periods.* If a covered loan or application includes a schedule with repayment periods measured in a unit of time other than months, the financial institution should report the covered loan or application term using an equivalent number of whole months without regard for any remainder.

3. *Purchased loans.* For a covered loan that was purchased, a financial institution reports the number of months after which the legal obligation matures as measured from the covered loan's origination.

4. *Open-end line of credit.* For an open-end line of credit with a definite term, a financial institution reports the number of months from origination until the account termination date, including both the draw and repayment period.

5. *Loan term—scope of requirement.* For a covered loan or application without a definite term, such as a reverse mortgage, a financial institution complies with § 1003.4(a)(25) by reporting that the requirement is not applicable. For partially exempt transactions under § 1003.3(d), an insured depository institution or insured credit union is not required to report the loan term. *See* § 1003.3(d) and related commentary.

Paragraph 4(a)(26)

1. *Types of introductory rates.* Except for partially exempt transactions under § 1003.3(d), § 1003.4(a)(26) requires a financial institution to report the number of months, or proposed number of months in the case of an application, from closing or account opening until the first date the interest rate may change. For example, assume an open-end line of credit contains an introductory or ''teaser'' interest rate for two months after the date of account opening, after which the interest rate may adjust. In this example, the financial institution complies with § 1003.4(a)(26) by reporting the number of months as ''2.'' Section 1003.4(a)(26) requires a financial institution to report the number of months based on when the first interest rate adjustment may occur, even if an interest rate adjustment is not required to occur at that time and even if the rates that will apply, or the periods for which they will apply, are not known at closing or account opening. For example, if a closed-end mortgage loan with a 30-year term has an adjustable-rate product with an introductory interest rate for the first 60 months, after which the interest rate is permitted, but not required to vary, according to the terms of an index rate, the financial institution complies with § 1003.4(a)(26) by reporting the number of months as ''60.'' Similarly, if a closed-end mortgage loan with a 30-year term is a step-rate product with an introductory interest rate for the first 24 months, after which the interest rate will increase to a different known interest rate for the next 36 months, the financial institution complies with § 1003.4(a)(26) by reporting the number of months as ''24.''

2. *Preferred rates.* Section 1003.4(a)(26) does not require reporting of introductory interest rate periods based on preferred rates unless the terms of the legal obligation provide that the preferred rate will expire at a certain defined date. Preferred rates include terms of the legal obligation that provide that the initial underlying rate is fixed but that it may increase or decrease upon the

occurrence of some future event, such as an employee leaving the employ of the financial institution, the borrower closing an existing deposit account with the financial institution, or the borrower revoking an election to make automated payments. In these cases, because it is not known at the time of closing or account opening whether the future event will occur, and if so, when it will occur, § 1003.4(a)(26) does not require reporting of an introductory interest rate period.

3. *Loan or application with a fixed rate.* A financial institution complies with § 1003.4(a)(26) by reporting that the requirement is not applicable for a covered loan with a fixed rate or an application for a covered loan with a fixed rate.

4. *Purchased loan.* A financial institution complies with § 1003.4(a)(26) by reporting that requirement is not applicable when the covered loan is a purchased covered loan with a fixed rate.

5. *Non-monthly introductory periods.* If a covered loan or application includes an introductory interest rate period measured in a unit of time other than months, the financial institution complies with § 1003.4(a)(26) by reporting the introductory interest rate period for the covered loan or application using an equivalent number of whole months without regard for any remainder. For example, assume an open-end line of credit contains an introductory interest rate for 50 days after the date of account opening, after which the interest rate may adjust. In this example, the financial institution complies with § 1003.4(a)(26) by reporting the number of months as ''1.'' The financial institution must report one month for any introductory interest rate period that totals less than one whole month.

Paragraph 4(a)(27)

1. *General.* Except for partially exempt transactions under § 1003.3(d), § 1003.4(a)(27) requires reporting of contractual features that would allow payments other than fully amortizing payments. Section 1003.4(a)(27) defines the contractual features by reference to Regulation Z, 12 CFR part 1026, but without regard to whether the covered loan is consumer credit, as defined in § 1026.2(a)(12), is extended by a creditor, as defined in § 1026.2(a)(17), or is extended to a consumer, as defined in § 1026.2(a)(11), and without regard to whether the property is a dwelling as defined in § 1026.2(a)(19). For example, assume that a financial institution originates a business-purpose transaction that is exempt from Regulation Z pursuant to 12 CFR 1026.3(a)(1), to finance the purchase of a multifamily dwelling, and that there is a balloon payment, as defined by Regulation Z, 12 CFR 1026.18(s)(5)(i), at the end of the loan term. The multifamily dwelling is a dwelling under § 1003.2(f), but not under Regulation Z, 12 CFR 1026.2(a)(19). In this example, the financial institution should report the business-purpose transaction as having a balloon payment under § 1003.4(a)(27)(i), assuming the other requirements of this part are met. Aside from these distinctions, financial institutions may rely on the definitions and related commentary provided in the appropriate sections of Regulation Z referenced in § 1003.4(a)(27) of this part in determining whether the contractual feature should be reported.

Paragraph 4(a)(28)

1. *General.* Except for partially exempt transactions under § 1003.3(d), § 1003.4(a)(28) requires a financial institution to report the property value relied on in making the credit decision. For example, if the institution relies on an appraisal or other valuation for the property in calculating the loan-to-value ratio, it reports that value; if the institution relies on the purchase price of the property in calculating the loan-to-value ratio, it reports that value.

2. *Multiple property values.* When a financial institution obtains two or more valuations of the property securing or proposed to secure the covered loan, the financial institution complies with § 1003.4(a)(28) by reporting the value relied on in making the credit decision. For example, when a financial institution obtains an appraisal, an automated valuation model report, and a broker price opinion with different values for the property, it reports the value relied on in making the credit decision. Section § 1003.4(a)(28) does not require a financial institution to use a particular property valuation method, but instead requires a financial institution to report the valuation relied on in making the credit decision.

3. *Transactions for which no credit decision was made.* If a file was closed for incompleteness or the application was withdrawn before a credit decision was made, the financial institution complies with § 1003.4(a)(28) by reporting that the requirement is not applicable, even if the financial institution had obtained a property value. For example, if a file is closed for incompleteness and is so reported in accordance with § 1003.4(a)(8), the financial institution complies with § 1003.4(a)(28) by reporting that the requirement is not applicable, even if the financial institution had obtained a property value. Similarly, if an application was withdrawn by the applicant before a credit decision was made and is so reported in accordance with § 1003.4(a)(8), the financial institution complies with § 1003.4(a)(28) by reporting that the requirement is not applicable, even if the financial institution had obtained a property value.

4. *Transactions for which no property value was relied on.* Section 1003.4(a)(28) does not require a financial institution to obtain a property valuation, nor does it require a financial institution to rely on a property value in making a credit decision. If a financial institution makes a credit decision without relying on a property value, the financial institution complies with § 1003.4(a)(28) by reporting that the requirement is not applicable since no property value was relied on in making the credit decision.

Paragraph 4(a)(29)

1. *Classification under State law.* A financial institution should report a covered loan that is or would have been secured only by a manufactured home but not the land on which it is sited as secured by a manufactured home and not land, even if the manufactured home is considered real property under applicable State law.

2. *Manufactured home community.* A manufactured home community that is a multifamily dwelling is not considered a manufactured home for purposes of § 1003.4(a)(29).

3. *Multiple properties.* See comment 4(a)(9)–2 regarding transactions involving multiple properties with more than one property taken as security.

4. *Scope of requirement.* A financial institution reports that the requirement is not applicable for a covered loan where the dwelling related to the property identified in § 1003.4(a)(9) is not a manufactured home. For partially exempt transactions under § 1003.3(d), an insured depository institution or insured credit union is not required to report the information specified in § 1003.4(a)(29). *See* § 1003.3(d) and related commentary.

Paragraph 4(a)(30)

1. *Indirect land ownership.* Indirect land ownership can occur when the applicant or borrower is or will be a member of a resident-owned community structured as a housing cooperative in which the occupants own an entity that holds the underlying land of the manufactured home community. In such communities, the applicant or borrower may still have a lease and pay rent for the lot on which his or her manufactured home is or will be located, but the property interest type for such an arrangement should be reported as indirect ownership if the applicant is or will be a member of the cooperative that owns the underlying land of the manufactured home community. If an applicant resides or will reside in such a community but is not a member, the property interest type should be reported as a paid leasehold.

2. *Leasehold interest.* A leasehold interest could be formalized in a lease with a defined term and specified rent payments, or could arise as a tenancy at will through permission of a land owner without any written, formal arrangement. For example, assume a borrower will locate the manufactured home in a manufactured home community, has a written lease for a lot in that park, and the lease specifies rent payments. In this example, a financial institution complies with § 1003.4(a)(30) by reporting a paid leasehold. However, if instead the borrower will locate the manufactured home on land owned by a family member without a written lease and with no agreement as to rent payments, a financial institution complies with § 1003.4(a)(30) by reporting an unpaid leasehold.

3. *Multiple properties.* See comment 4(a)(9)–2 regarding transactions involving multiple properties with more than one property taken as security.

4. *Manufactured home community.* A manufactured home community that is a multifamily dwelling is not considered a manufactured home for purposes of § 1003.4(a)(30).

5. *Direct ownership.* An applicant or borrower has a direct ownership interest in the land on which the dwelling is or is to be

located when it has a more than possessory real property ownership interest in the land such as fee simple ownership.

6. *Scope of requirement.* A financial institution reports that the requirement is not applicable for a covered loan where the dwelling related to the property identified in § 1003.4(a)(9) is not a manufactured home. For partially exempt transactions under § 1003.3(d), an insured depository institution or insured credit union is not required to report the information specified in § 1003.4(a)(30). *See* § 1003.3(d) and related commentary.

Paragraph 4(a)(31)

1. *Multiple properties.* See comment 4(a)(9)–2 regarding transactions involving multiple properties with more than one property taken as security.

2. *Manufactured home community.* For an application or covered loan secured by a manufactured home community, the financial institution should include in the number of individual dwelling units the total number of manufactured home sites that secure the loan and are available for occupancy, regardless of whether the sites are currently occupied or have manufactured homes currently attached. A financial institution may include in the number of individual dwelling units other units such as recreational vehicle pads, manager apartments, rental apartments, site-built homes or other rentable space that are ancillary to the operation of the secured property if it considers such units under its underwriting guidelines or the guidelines of an investor, or if it tracks the number of such units for its own internal purposes. For a loan secured by a single manufactured home that is or will be located in a manufactured home community, the financial institution should report one individual dwelling unit.

3. *Condominium and cooperative projects.* For a covered loan secured by a condominium or cooperative property, the financial institution reports the total number of individual dwelling units securing the covered loan or proposed to secure the covered loan in the case of an application. For example:

i. Assume that a loan is secured by the entirety of a cooperative property. The financial institution would report the number of individual dwelling units in the cooperative property.

ii. Assume that a covered loan is secured by 30 individual dwelling units in a condominium property that contains 100 individual dwelling units and that the loan is not exempt from Regulation C under § 1003.3(c)(3). The financial institution reports 30 individual dwelling units.

4. *Best information available.* A financial institution may rely on the best information readily available to the financial institution at the time final action is taken and on the financial institution's own procedures in reporting the information required by § 1003.4(a)(31). Information readily available could include, for example, information provided by an applicant that the financial institution reasonably believes, information contained in a property valuation or inspection, or information obtained from public records.

Paragraph 4(a)(32)

1. *Affordable housing income restrictions.* For purposes of § 1003.4(a)(32), affordable housing income-restricted units are individual dwelling units that have restrictions based on the income level of occupants pursuant to restrictive covenants encumbering the property. Such income levels are frequently expressed as a percentage of area median income by household size as established by the U.S. Department of Housing and Urban Development or another agency responsible for implementing the applicable affordable housing program. Such restrictions are frequently part of compliance with programs that provide public funds, special tax treatment, or density bonuses to encourage development or preservation of affordable housing. Such restrictions are frequently evidenced by a use agreement, regulatory agreement, land use restriction agreement, housing assistance payments contract, or similar agreement. Rent control or rent stabilization laws, and the acceptance by the owner or manager of a multifamily dwelling of Housing Choice Vouchers (24 CFR part 982) or other similar forms of portable housing assistance that are tied to an occupant and not an individual dwelling unit, are not affordable housing income-restricted dwelling units for purposes of § 1003.4(a)(32).

2. *Federal affordable housing sources.* Examples of Federal programs and funding sources that may result in individual dwelling units that are reportable under § 1003.4(a)(32) include, but are not limited to:

i. Affordable housing programs pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f);

ii. Public housing (42 U.S.C. 1437a(b)(6));

iii. The HOME Investment Partnerships program (24 CFR part 92);

iv. The Community Development Block Grant program (24 CFR part 570);

v. Multifamily tax subsidy project funding through tax-exempt bonds or tax credits (26 U.S.C. 42; 26 U.S.C. 142(d));

vi. Project-based vouchers (24 CFR part 983);

vii. Federal Home Loan Bank affordable housing program funding (12 CFR part 1291); and

viii. Rural Housing Service multifamily housing loans and grants (7 CFR part 3560).

3. *State and local government affordable housing sources.* Examples of State and local sources that may result in individual dwelling units that are reportable under § 1003.4(a)(32) include, but are not limited to: State or local administration of Federal funds or programs; State or local funding programs for affordable housing or rental assistance, including programs operated by independent public authorities; inclusionary zoning laws; and tax abatement or tax increment financing contingent on affordable housing requirements.

4. *Multiple properties.* See comment 4(a)(9)–2 regarding transactions involving multiple properties with more than one property taken as security.

5. *Best information available.* A financial institution may rely on the best information readily available to the financial institution at the time final action is taken and on the financial institution's own procedures in reporting the information required by § 1003.4(a)(32). Information readily available could include, for example, information provided by an applicant that the financial institution reasonably believes, information contained in a property valuation or inspection, or information obtained from public records.

6. *Scope of requirement.* A financial institution reports that the requirement is not applicable if the property securing the covered loan or, in the case of an application, proposed to secure the covered loan is not a multifamily dwelling. For partially exempt transactions under § 1003.3(d), an insured depository institution or insured credit union is not required to report the information specified in § 1003.4(a)(32). *See* § 1003.3(d) and related commentary.

Paragraph 4(a)(33)

1. *Agents.* If a financial institution is reporting actions taken by its agent consistent with comment 4(a)–4, the agent is not considered the financial institution for the purposes of § 1003.4(a)(33). For example, assume that an applicant submitted an application to Financial Institution A, and Financial Institution A made the credit decision acting as Financial Institution B's agent under State law. A covered loan was originated and the obligation arising from a covered loan was initially payable to Financial Institution A. Financial Institution B purchased the loan. Financial Institution B reports the origination and not the purchase, and indicates that the application was not submitted directly to the financial institution and that the transaction was not initially payable to the financial institution.

Paragraph 4(a)(33)(i)

1. *General.* Except for partially exempt transactions under § 1003.3(d), § 1003.4(a)(33)(i) requires a financial institution to indicate whether the applicant or borrower submitted the application directly to the financial institution that is reporting the covered loan or application. The following scenarios demonstrate whether an application was submitted directly to the financial institution that is reporting the covered loan or application.

i. The application was submitted directly to the financial institution if the mortgage loan originator identified pursuant to § 1003.4(a)(34) was an employee of the reporting financial institution when the originator performed the origination activities for the covered loan or application that is being reported.

ii. The application was also submitted directly to the financial institution reporting the covered loan or application if the reporting financial institution directed the applicant to a third-party agent (*e.g.,* a credit union service organization) that performed loan origination activities on behalf of the financial institution and did not assist the applicant with applying for covered loans with other institutions.

iii. If an applicant contacted and completed an application with a broker or correspondent that forwarded the application to a financial institution for approval, an application was not submitted to the financial institution.

Paragraph 4(a)(33)(ii)

1. *General.* Except for partially exempt transactions under § 1003.3(d), § 1003.4(a)(33)(ii) requires financial institutions to report whether the obligation arising from a covered loan was or, in the case of an application, would have been initially payable to the institution. An obligation is initially payable to the institution if the obligation is initially payable either on the face of the note or contract to the financial institution that is reporting the covered loan or application. For example, if a financial institution reported an origination of a covered loan that it approved prior to closing, that closed in the name of a third-party, such as a correspondent lender, and that the financial institution purchased after closing, the covered loan was not initially payable to the financial institution.

2. *Applications.* A financial institution complies with § 1003.4(a)(33)(ii) by reporting that the requirement is not applicable if the institution had not determined whether the covered loan would have been initially payable to the institution reporting the application when the application was withdrawn, denied, or closed for incompleteness.

Paragraph 4(a)(34)

1. *NMLSR ID.* Except for partially exempt transactions under § 1003.3(d), § 1003.4(a)(34) requires a financial institution to report the Nationwide Mortgage Licensing System and Registry unique identifier (NMLSR ID) for the mortgage loan originator, as defined in Regulation G, 12 CFR 1007.102, or Regulation H, 12 CFR 1008.23, as applicable. The NMLSR ID is a unique number or other identifier generally assigned to individuals registered or licensed through NMLSR to provide loan originating services. For more information, see the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, title V of the Housing and Economic Recovery Act of 2008 (S.A.F.E. Act), 12 U.S.C. 5101 *et seq.,* and its implementing regulations (12 CFR part 1007 and 12 CFR part 1008).

2. *Mortgage loan originator without NMLSR ID.* An NMLSR ID for the mortgage loan originator is not required by § 1003.4(a)(34) to be reported by a financial institution if the mortgage loan originator is not required to obtain and has not been assigned an NMLSR ID. For example, certain individual mortgage loan originators may not be required to obtain an NMLSR ID for the particular transaction being reported by the financial institution, such as a commercial loan. However, some mortgage loan originators may have obtained an NMLSR ID even if they are not required to obtain one for that particular transaction. If a mortgage loan originator has been assigned an NMLSR ID, a financial institution complies with § 1003.4(a)(34) by reporting the mortgage loan originator's NMLSR ID regardless of whether the mortgage loan originator is required to obtain an NMLSR ID for the particular transaction being reported by the financial institution. In the event that the mortgage loan originator is not required to obtain and has not been assigned an NMLSR ID, a financial institution complies with § 1003.4(a)(34) by reporting that the requirement is not applicable.

3. *Multiple mortgage loan originators.* If more than one individual associated with a covered loan or application meets the definition of a mortgage loan originator, as defined in Regulation G, 12 CFR 1007.102, or Regulation H, 12 CFR 1008.23, a financial institution complies with § 1003.4(a)(34) by reporting the NMLSR ID of the individual mortgage loan originator with primary responsibility for the transaction as of the date of action taken pursuant to § 1003.4(a)(8)(ii). A financial institution that establishes and follows a reasonable, written policy for determining which individual mortgage loan originator has primary responsibility for the reported transaction as of the date of action taken complies with § 1003.4(a)(34).

4. *Purchased loans.* If a financial institution purchases a covered loan that satisfies the coverage criteria of Regulation Z, 12 CFR 1026.36(g), and that was originated prior to January 10, 2014, the financial institution complies with § 1003.4(a)(34) by reporting that the requirement is not applicable. In addition, if a financial institution purchases a covered loan that does not satisfy the coverage criteria of Regulation Z, 12 CFR 1026.36(g), and that was originated prior to January 1, 2018, the financial institution complies with § 1003.4(a)(34) by reporting that the requirement is not applicable. Purchasers of both such types of covered loans may report the NMLSR ID.

Paragraph 4(a)(35)

1. *Automated underwriting system data—general.* Except for purchased covered loans and partially exempt transactions under § 1003.3(d), § 1003.4(a)(35) requires a financial institution to report the name of the automated underwriting system (AUS) used by the financial institution to evaluate the application and the result generated by that AUS. The following scenarios illustrate when a financial institution reports the name of the AUS used by the financial institution to evaluate the application and the result generated by that AUS.

i. A financial institution that uses an AUS, as defined in § 1003.4(a)(35)(ii), to evaluate an application, must report the name of the AUS used by the financial institution to evaluate the application and the result generated by that system, regardless of whether the AUS was used in its underwriting process. For example, if a financial institution uses an AUS to evaluate an application prior to submitting the application through its underwriting process, the financial institution complies with § 1003.4(a)(35) by reporting the name of the AUS it used to evaluate the application and the result generated by that system.

ii. A financial institution that uses an AUS, as defined in § 1003.4(a)(35)(ii), to evaluate an application, must report the name of the AUS it used to evaluate the application and the result generated by that system, regardless of whether the financial institution intends to hold the covered loan in its portfolio or sell the covered loan. For example, if a financial institution uses an AUS developed by a securitizer to evaluate an application and intends to sell the covered loan to that securitizer but ultimately does not sell the covered loan and instead holds the covered loan in its portfolio, the financial institution complies with § 1003.4(a)(35) by reporting the name of the securitizer's AUS that the institution used to evaluate the application and the result generated by that system. Similarly, if a financial institution uses an AUS developed by a securitizer to evaluate an application to determine whether to originate the covered loan but does not intend to sell the covered loan to that securitizer and instead holds the covered loan in its portfolio, the financial institution complies with § 1003.4(a)(35) by reporting the name of the securitizer's AUS that the institution used to evaluate the application and the result generated by that system.

iii. A financial institution that uses an AUS, as defined in § 1003.4(a)(35)(ii), that is developed by a securitizer to evaluate an application, must report the name of the AUS it used to evaluate the application and the result generated by that system, regardless of whether the securitizer intends to hold the covered loan it purchased from the financial institution in its portfolio or securitize the covered loan. For example, if a financial institution uses an AUS developed by a securitizer to evaluate an application and the financial institution sells the covered loan to that securitizer but the securitizer holds the covered loan it purchased in its portfolio, the financial institution complies with § 1003.4(a)(35) by reporting the name of the securitizer's AUS that the institution used to evaluate the application and the result generated by that system.

iv. A financial institution, which is also a securitizer, that uses its own AUS, as defined in § 1003.4(a)(35)(ii), to evaluate an application, must report the name of the AUS it used to evaluate the application and the result generated by that system, regardless of whether the financial institution intends to hold the covered loan it originates in its portfolio, purchase the covered loan, or securitize the covered loan. For example, if a financial institution, which is also a securitizer, has developed its own AUS and uses that AUS to evaluate an application that it intends to originate and hold in its portfolio and not purchase or securitize the covered loan, the financial institution complies with § 1003.4(a)(35) by reporting the name of its AUS that it used to evaluate the application and the result generated by that system.

2. *Definition of automated underwriting system.* A financial institution must report the information required by § 1003.4(a)(35)(i) if the financial institution uses an automated underwriting system (AUS), as defined in § 1003.4(a)(35)(ii), to evaluate an application. To be covered by the definition in § 1003.4(a)(35)(ii), a system must be an electronic tool that has been developed by a securitizer, Federal government insurer, or a Federal government guarantor of closed-end mortgage loans or open-end lines of credit. A person is a securitizer, Federal government insurer, or Federal government guarantor of

closed-end mortgage loans or open-end lines of credit, respectively, if it has securitized, provided Federal government insurance, or provided a Federal government guarantee for a closed-end mortgage loan or open-end line of credit at any point in time. A person may be a securitizer, Federal government insurer, or Federal government guarantor of closed-end mortgage loans or open-end lines of credit, respectively, for purposes of § 1003.4(a)(35) even if it is not actively securitizing, insuring, or guaranteeing closed-end mortgage loans or open-end lines of credit at the time a financial institution uses the AUS to evaluate an application. Where the person that developed the electronic tool has never been a securitizer, Federal government insurer, or Federal government guarantor of closed-end mortgage loans or open-end lines of credit, respectively, at the time a financial institution uses the tool to evaluate an application, the financial institution complies with § 1003.4(a)(35) by reporting that the requirement is not applicable because an AUS was not used to evaluate the application. If a financial institution has developed its own proprietary system that it uses to evaluate an application and the financial institution is also a securitizer, then the financial institution complies with § 1003.4(a)(35) by reporting the name of that system and the result generated by that system. On the other hand, if a financial institution has developed its own proprietary system that it uses to evaluate an application and the financial institution is not a securitizer, then the financial institution is not required by § 1003.4(a)(35) to report the use of that system and the result generated by that system. In addition, for an AUS to be covered by the definition in § 1003.4(a)(35)(ii), the system must provide a result regarding both the credit risk of the applicant and the eligibility of the covered loan to be originated, purchased, insured, or guaranteed by the securitizer, Federal government insurer, or Federal government guarantor that developed the system being used to evaluate the application. For example, if a system is an electronic tool that provides a determination of the eligibility of the covered loan to be originated, purchased, insured, or guaranteed by the securitizer, Federal government insurer, or Federal government guarantor that developed the system being used by a financial institution to evaluate the application, but the system does not also provide an assessment of the creditworthiness of the applicant—such as an evaluation of the applicant's income, debt, and credit history—then that system does not qualify as an AUS, as defined in § 1003.4(a)(35)(ii). A financial institution that uses a system that is not an AUS, as defined in § 1003.4(a)(35)(ii), to evaluate an application does not report the information required by § 1003.4(a)(35)(i).

3. *Reporting automated underwriting system data—multiple results.* When a financial institution uses one or more automated underwriting systems (AUS) to evaluate the application and the system or systems generate two or more results, the financial institution complies with § 1003.4(a)(35) by reporting, except for purchased covered loans, the name of the AUS used by the financial institution to evaluate the application and the result generated by that AUS as determined by the following principles. To determine what AUS (or AUSs) and result (or results) to report under § 1003.4(a)(35), a financial institution follows each of the principles that is applicable to the application in question, in the order in which they are set forth below.

i. If a financial institution obtains two or more AUS results and the AUS generating one of those results corresponds to the loan type reported pursuant to § 1003.4(a)(2), the financial institution complies with § 1003.4(a)(35) by reporting that AUS name and result. For example, if a financial institution evaluates an application using the Federal Housing Administration's (FHA) Technology Open to Approved Lenders (TOTAL) Scorecard and subsequently evaluates the application with an AUS used to determine eligibility for a non-FHA loan, but ultimately originates an FHA loan, the financial institution complies with § 1003.4(a)(35) by reporting TOTAL Scorecard and the result generated by that system. If a financial institution obtains two or more AUS results and more than one of those AUS results is generated by a system that corresponds to the loan type reported pursuant to § 1003.4(a)(2), the financial institution identifies which AUS result should be reported by following the principle set forth below in comment 4(a)(35)–3.ii.

ii. If a financial institution obtains two or more AUS results and the AUS generating one of those results corresponds to the purchaser, insurer, or guarantor, if any, the financial institution complies with § 1003.4(a)(35) by reporting that AUS name and result. For example, if a financial institution evaluates an application with the AUS of Securitizer A and subsequently evaluates the application with the AUS of Securitizer B, but the financial institution ultimately originates a covered loan that it sells within the same calendar year to Securitizer A, the financial institution complies with § 1003.4(a)(35) by reporting the name of Securitizer A's AUS and the result generated by that system. If a financial institution obtains two or more AUS results and more than one of those AUS results is generated by a system that corresponds to the purchaser, insurer, or guarantor, if any, the financial institution identifies which AUS result should be reported by following the principle set forth below in comment 4(a)(35)–3.iii.

iii. If a financial institution obtains two or more AUS results and none of the systems generating those results correspond to the purchaser, insurer, or guarantor, if any, or the financial institution is following this principle because more than one AUS result is generated by a system that corresponds to either the loan type or the purchaser, insurer, or guarantor, the financial institution complies with § 1003.4(a)(35) by reporting the AUS result generated closest in time to the credit decision and the name of the AUS that generated that result. For example, if a financial institution evaluates an application with the AUS of Securitizer A, subsequently again evaluates the application with Securitizer A's AUS, the financial institution complies with § 1003.4(a)(35) by reporting the name of Securitizer A's AUS and the second AUS result. Similarly, if a financial institution obtains a result from an AUS that requires the financial institution to underwrite the loan manually, but the financial institution subsequently processes the application through a different AUS that also generates a result, the financial institution complies with § 1003.4(a)(35) by reporting the name of the second AUS that it used to evaluate the application and the AUS result generated by that system.

iv. If a financial institution obtains two or more AUS results at the same time and the principles in comment 4(a)(35)–3.i through .iii do not apply, the financial institution complies with § 1003.4(a)(35) by reporting the name of all of the AUSs used by the financial institution to evaluate the application and the results generated by each of those systems. For example, if a financial institution simultaneously evaluates an application with the AUS of Securitizer A and the AUS of Securitizer B, the financial institution complies with § 1003.4(a)(35) by reporting the name of both Securitizer A's AUS and Securitizer B's AUS and the results generated by each of those systems. In any event, however, the financial institution does not report more than five AUSs and five results. If more than five AUSs and five results meet the criteria in this principle, the financial institution complies with § 1003.4(a)(35) by choosing any five among them to report.

4. *Transactions for which an automated underwriting system was not used to evaluate the application.* Section 1003.4(a)(35) does not require a financial institution to evaluate an application using an automated underwriting system (AUS), as defined in § 1003.4(a)(35)(ii). For example, if a financial institution only manually underwrites an application and does not use an AUS to evaluate the application, the financial institution complies with § 1003.4(a)(35) by reporting that the requirement is not applicable since an AUS was not used to evaluate the application.

5. *Purchased covered loan.* A financial institution complies with § 1003.4(a)(35) by reporting that the requirement is not applicable when the covered loan is a purchased covered loan.

6. *Non-natural person.* When the applicant and co-applicant, if applicable, are not natural persons, a financial institution complies with § 1003.4(a)(35) by reporting that the requirement is not applicable.

7. *Determination of securitizer, Federal government insurer, or Federal government guarantor.* Section 1003.4(a)(35)(ii) provides that an ''automated underwriting system'' means an electronic tool developed by a securitizer, Federal government insurer, or Federal government guarantor of closed-end mortgage loans or open-end lines of credit that provides a result regarding the credit risk of the applicant and whether the covered loan is eligible to be originated, purchased, insured, or guaranteed by that securitizer, Federal government insurer, or Federal government guarantor. A person is a

securitizer, Federal government insurer, or Federal government guarantor of closed-end mortgage loans or open-end lines of credit, respectively, if it has ever securitized, insured, or guaranteed a closed-end mortgage loan or open-end line of credit. If a financial institution knows or reasonably believes that the system it is using to evaluate an application is an electronic tool that has been developed by a securitizer, Federal government insurer, or Federal government guarantor of closed-end mortgage loans or open-end lines of credit, then the financial institution complies with § 1003.4(a)(35) by reporting the name of that system and the result generated by that system. Knowledge or reasonable belief could, for example, be based on a sales agreement or other related documents, the financial institution's previous transactions or relationship with the developer of the electronic tool, or representations made by the developer of the electronic tool demonstrating that the developer of the electronic tool is a securitizer, Federal government insurer, or Federal government guarantor of closed-end mortgage loans or open-end lines of credit. If a financial institution does not know or reasonably believe that the system it is using to evaluate an application is an electronic tool that has been developed by a securitizer, Federal government insurer, or Federal government guarantor of closed-end mortgage loans or open-end lines of credit, the financial institution complies with § 1003.4(a)(35) by reporting that the requirement is not applicable, provided that the financial institution maintains procedures reasonably adapted to determine whether the electronic tool it is using to evaluate an application meets the definition in § 1003.4(a)(35)(ii). Reasonably adapted procedures include attempting to determine with reasonable frequency, such as annually, whether the developer of the electronic tool is a securitizer, Federal government insurer, or Federal government guarantor of closed-end mortgage loans or open-end lines of credit. For example:

i. In the course of renewing an annual sales agreement the developer of the electronic tool represents to the financial institution that it has never been a securitizer, Federal government insurer, or Federal government guarantor of closed-end mortgage loans or open-end lines of credit. On this basis, the financial institution does not know or reasonably believe that the system it is using to evaluate an application is an electronic tool that has been developed by a securitizer, Federal government insurer, or Federal government guarantor of closed-end mortgage loans or open-end lines of credit and complies with § 1003.4(a)(35) by reporting that the requirement is not applicable.

ii. Based on their previous transactions a financial institution is aware that the developer of the electronic tool it is using to evaluate an application has securitized a closed-end mortgage loan or open-end line of credit in the past. On this basis, the financial institution knows or reasonably believes that the developer of the electronic tool is a securitizer and complies with § 1003.4(a)(35) by reporting the name of that system and the result generated by that system.

Paragraph 4(a)(37)

1. *Open-end line of credit.* Except for partially exempt transactions under § 1003.3(d), § 1003.4(a)(37) requires a financial institution to identify whether the covered loan or the application is for an open-end line of credit. See comments 2(o)–1 and –2 for a discussion of open-end line of credit and extension of credit.

Paragraph 4(a)(38)

1. *Primary purpose.* Except for partially exempt transactions under § 1003.3(d), § 1003.4(a)(38) requires a financial institution to identify whether the covered loan is, or the application is for a covered loan that will be, made primarily for a business or commercial purpose. See comment 3(c)(10)–2 for a discussion of how to determine the primary purpose of the transaction and the standard applicable to a financial institution's determination of the primary purpose of the transaction. See comments 3(c)(10)–3 and 4 for examples of excluded and reportable business- or commercial-purpose transactions.

* * * * *

■ 6. Effective January 1, 2022, § 1003.2, as amended at 82 FR 43088, September 13, 2017, is further amended by revising paragraphs (g)(1)(v)(B) and (g)(2)(ii)(B) to read as follows:

§ 1003.2 Definitions.

* * * * *

(g) * * *

(1) * * *

(v) * * *

(B) In each of the two preceding calendar years, originated at least 100 open-end lines of credit that are not excluded from this part pursuant to § 1003.3(c)(1) through (10); and

(2) * * *

(ii) * * *

(B) In each of the two preceding calendar years, originated at least 100 open-end lines of credit that are not excluded from this part pursuant to § 1003.3(c)(1) through (10).

* * * * *

■ 7. Effective January 1, 2022, § 1003.3, as amended at 82 FR 43088, September 13, 2017, is further amended by revising paragraph (c)(12) to read as follows:

§ 1003.3 Exempt institutions and excluded and partially exempt transactions.

* * * * *

(c) * * *

(12) An open-end line of credit, if the financial institution originated fewer than 100 open-end lines of credit in either of the two preceding calendar years; a financial institution may collect, record, report, and disclose information, as described in §§ 1003.4 and 1003.5, for such an excluded open-end line of credit as though it were a covered loan, provided that the financial institution complies with such requirements for all applications for open-end lines of credit that it receives, open-end lines of credit that it originates, and open-end lines of credit that it purchases that otherwise would have been covered loans during the calendar year during which final action is taken on the excluded open-end line of credit; or

* * * * *

■ 8. Effective January 1, 2022, supplement I to part 1003, as amended at 82 FR 43088, September 13, 2017, is further amended as follows:

■ a. Under *Section 1003.2—Definitions,* revise *2(g) Financial Institution;* and

■ b. Under *Section 1003.3—Exempt Institutions and Excluded and Partially Exempt Transactions,* under *3(c) Excluded Transactions,* revise *Paragraph 3(c)(12).*

The revisions read as follows:

Supplement I to Part 1003—Official Interpretations

* * * * *

Section 1003.2—Definitions

* * * * *

2(g) Financial Institution

1. *Preceding calendar year and preceding December 31.* The definition of financial institution refers both to the preceding calendar year and the preceding December 31. These terms refer to the calendar year and the December 31 preceding the current calendar year. For example, in 2019, the preceding calendar year is 2018 and the preceding December 31 is December 31, 2018. Accordingly, in 2019, Financial Institution A satisfies the asset-size threshold described in § 1003.2(g)(1)(i) if its assets exceeded the threshold specified in comment 2(g)–2 on December 31, 2018. Likewise, in 2020, Financial Institution A does not meet the loan-volume test described in § 1003.2(g)(1)(v)(A) if it originated fewer than 25 closed-end mortgage loans during either 2018 or 2019.

2. [Reserved]

3. *Merger or acquisition—coverage of surviving or newly formed institution.* After a merger or acquisition, the surviving or newly formed institution is a financial institution under § 1003.2(g) if it, considering the combined assets, location, and lending activity of the surviving or newly formed institution and the merged or acquired institutions or acquired branches, satisfies the criteria included in § 1003.2(g). For example, A and B merge. The surviving or newly formed institution meets the loan threshold described in § 1003.2(g)(1)(v)(B) if the surviving or newly formed institution, A, and B originated a combined total of at least 100 open-end lines of credit in each of the two preceding calendar years. Likewise, the surviving or newly formed institution meets the asset-size threshold in § 1003.2(g)(1)(i) if its assets and the combined assets of A and B on December 31 of the preceding calendar year exceeded the threshold described in

§ 1003.2(g)(1)(i). Comment 2(g)–4 discusses a financial institution's responsibilities during the calendar year of a merger.

4. *Merger or acquisition—coverage for calendar year of merger or acquisition.* The scenarios described below illustrate a financial institution's responsibilities for the calendar year of a merger or acquisition. For purposes of these illustrations, a ''covered institution'' means a financial institution, as defined in § 1003.2(g), that is not exempt from reporting under § 1003.3(a), and ''an institution that is not covered'' means either an institution that is not a financial institution, as defined in § 1003.2(g), or an institution that is exempt from reporting under § 1003.3(a).

i. Two institutions that are not covered merge. The surviving or newly formed institution meets all of the requirements necessary to be a covered institution. No data collection is required for the calendar year of the merger (even though the merger creates an institution that meets all of the requirements necessary to be a covered institution). When a branch office of an institution that is not covered is acquired by another institution that is not covered, and the acquisition results in a covered institution, no data collection is required for the calendar year of the acquisition.

ii. A covered institution and an institution that is not covered merge. The covered institution is the surviving institution, or a new covered institution is formed. For the calendar year of the merger, data collection is required for covered loans and applications handled in the offices of the merged institution that was previously covered and is optional for covered loans and applications handled in offices of the merged institution that was previously not covered. When a covered institution acquires a branch office of an institution that is not covered, data collection is optional for covered loans and applications handled by the acquired branch office for the calendar year of the acquisition.

iii. A covered institution and an institution that is not covered merge. The institution that is not covered is the surviving institution, or a new institution that is not covered is formed. For the calendar year of the merger, data collection is required for covered loans and applications handled in offices of the previously covered institution that took place prior to the merger. After the merger date, data collection is optional for covered loans and applications handled in the offices of the institution that was previously covered. When an institution remains not covered after acquiring a branch office of a covered institution, data collection is required for transactions of the acquired branch office that take place prior to the acquisition. Data collection by the acquired branch office is optional for transactions taking place in the remainder of the calendar year after the acquisition.

iv. Two covered institutions merge. The surviving or newly formed institution is a covered institution. Data collection is required for the entire calendar year of the merger. The surviving or newly formed institution files either a consolidated submission or separate submissions for that calendar year. When a covered institution acquires a branch office of a covered institution, data collection is required for the entire calendar year of the merger. Data for the acquired branch office may be submitted by either institution.

5. *Originations.* Whether an institution is a financial institution depends in part on whether the institution originated at least 25 closed-end mortgage loans in each of the two preceding calendar years or at least 100 open-end lines of credit in each of the two preceding calendar years. Comments 4(a)–2 through –4 discuss whether activities with respect to a particular closed-end mortgage loan or open-end line of credit constitute an origination for purposes of § 1003.2(g).

6. *Branches of foreign banks—treated as banks.* A Federal branch or a State-licensed or insured branch of a foreign bank that meets the definition of a ''bank'' under section 3(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)) is a bank for the purposes of § 1003.2(g).

7. *Branches and offices of foreign banks and other entities—treated as nondepository financial institutions.* A Federal agency, State-licensed agency, State-licensed uninsured branch of a foreign bank, commercial lending company owned or controlled by a foreign bank, or entity operating under section 25 or 25A of the Federal Reserve Act, 12 U.S.C. 601 and 611 (Edge Act and agreement corporations) may not meet the definition of ''bank'' under the Federal Deposit Insurance Act and may thereby fail to satisfy the definition of a depository financial institution under § 1003.2(g)(1). An entity is nonetheless a financial institution if it meets the definition of nondepository financial institution under § 1003.2(g)(2).

* * * * *

Section 1003.3—Exempt Institutions and Excluded and Partially Exempt Transactions

3(c) Excluded Transactions

* * * * *

Paragraph 3(c)(12)

1. *General.* Section 1003.3(c)(12) provides that an open-end line of credit is an excluded transaction if a financial institution originated fewer than 100 open-end lines of credit in either of the two preceding calendar years. For example, assume that a bank is a financial institution in 2022 under § 1003.2(g) because it originated 50 closed-end mortgage loans in 2020, 75 closed-end mortgage loans in 2021, and met all of the other requirements under § 1003.2(g)(1). Also assume that the bank originated 75 and 85 open-end lines of credit in 2020 and 2021, respectively. The closed-end mortgage loans that the bank originated or purchased, or for which it received applications, during 2022 are covered loans and must be reported, unless they otherwise are excluded transactions under § 1003.3(c). However, the open-end lines of credit that the bank originated or purchased, or for which it received applications, during 2022 are excluded transactions under § 1003.3(c)(12) and need not be reported. See comments 4(a)–2 through –4 for guidance about the activities that constitute an origination.

2. *Optional reporting.* A financial institution may report applications for, originations of, or purchases of open-end lines of credit that are excluded transactions because the financial institution originated fewer than 100 open-end lines of credit in either of the two preceding calendar years. However, a financial institution that chooses to report such excluded applications for, originations of, or purchases of open-end lines of credit must report all such applications for open-end lines of credit which it receives, open-end lines of credit that it originates, and open-end lines of credit that it purchases that otherwise would be covered loans for a given calendar year. Note that applications which remain pending at the end of a calendar year are not reported, as described in comment 4(a)(8)(i)–14.

* * * * *

Dated: October 9, 2019.

Kathleen L. Kraninger,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2019–22561 Filed 10–28–19; 8:45 am]

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